

**Ethics and Integrity Working Group
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Providing for Additional State
Procurement Disclosure
Executive Order Number 127 (EO 127)

Overview

Purpose of Executive Order Number 127

While laws enacted in 1995 regulate procurement by the State of New York and its public authorities and describe who can appear before State government entities on certain matters, more can be done to enhance public confidence in the State's procurement process. Towards that end, Governor Pataki issued Executive Order Number 127, *Providing for Additional State Procurement Disclosure*, increasing the disclosure requirements regarding persons and organizations contacting State government about procurement and real estate transactions, and making that information available to the public.

Applicability

Executive Order Number 127 requires (i) State agencies, (ii) any public benefit corporation, public authority or commission where at least one member is appointed by the Governor, (iii) the State University of New York and (iv) the City University of New York to collect and record certain information from contractors seeking a "procurement contract," and to make that information available to the public. A listing of covered agencies and authorities can be accessed by clicking [here](#). If your agency or authority is not included in the list, but qualifies under the above description of covered agencies or authorities, you will still be subject to Executive Order Number 127. While Executive Order Number 127 is only applicable to state agencies or authorities, the heads of which or at least one member of which is appointed by the Governor, other agencies, such as the Department of Law, Office of the State Comptroller and the State Education Department, are encouraged to voluntarily comply with its terms. If you are unsure whether Executive Order Number 127 applies to you, please contact the Office of General Services (see [Question 26](#) herein). Hereafter in the Guidelines, covered agencies and authorities will be referred to as "covered entity" or "covered entities" and Executive Order Number 127 will be referred to as "EO 127." Also for ease of reference, the term "contractor" shall be used to identify bidders, proposers, offerers, contractors or other parties to a "procurement contract".

Guidelines

The New York State Office of General Services (OGS) was directed by EO 127 to issue

written guidelines for implementation. Developed in question and answer format for distribution on the OGS internet site, these Guidelines and forms will be updated and re-issued to address questions and provide clarification on an as-needed basis. OGS has included access to additional references and procurement information through electronic web links including model language and forms.

No. 127
EXECUTIVE ORDER

PROVIDING FOR ADDITIONAL STATE PROCUREMENT DISCLOSURE

Printer-Friendly Version

WHEREAS, the State of New York and its public authorities have an obligation to carry out their responsibilities in the most efficient and effective manner possible;

WHEREAS, over the past eight and one-half years, we have made tremendous progress in streamlining and improving state government;

WHEREAS, the State of New York and its public authorities enter into numerous procurement contracts and real estate transactions which involve substantial sums of public moneys;

WHEREAS, while the State Legislature has enacted strong laws to regulate the procurement process and maintain its integrity (Procurement Stewardship Act, Chapter 83 of the Laws of 1995) and to regulate persons who appear before state government on certain matters (Lobby Law, Chapter 2 of the Laws of 1999), more can be done to maintain continued public confidence in the State's procurement process; and

WHEREAS, increased disclosure regarding persons and organizations contacting state government regarding procurement and real estate transactions would enhance public confidence in the procurement process.

NOW, THEREFORE, I, George E. Pataki, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby order as follows:

I. Definitions

1. "Covered agency or authority" shall mean any State department, office or division, or any board, commission or bureau thereof, and any public benefit corporation, public authority or commission at least one of whose members is appointed by the Governor, and shall include the State University of New York and the City University of New York.

2. "Procurement contract" shall mean any contract or agreement, or subsequent amendment thereto, involving an estimated annualized expenditure in excess of fifteen thousand dollars for:

(i) the purchase of goods or services;

(ii) the purchase, sale, lease, acquisition or granting of other interests in real property; and

(iii) public works. The term "procurement contract" shall not include a contract that, by law, must be awarded to the lowest responsible bidder, or a contract that, by law, must be awarded on the basis of lowest price subsequent to a competitive bid process.

3. "Proposal" shall mean any proposal, quotation, bid, offer or response to a covered agency or authority's solicitation of submissions in expectation of an award of a procurement contract.

4. "Attempt to influence the procurement process" shall mean any attempt to influence any determination of a member, officer or employee of a covered agency or authority by a person other than a member, officer or employee of a covered agency or authority with respect to:

(a) the solicitation, evaluation or award of a procurement contract; or

(b) the preparation of specifications or request for submissions of proposals for a procurement contract.

5. "Contractor" shall mean bidder, offeror or proposer for a procurement contract and shall include any subcontractor who may be engaged in the delivery of goods, services or construction pursuant to the procurement contract.

6. "Financial interest in the procurement" shall mean:

(a) owning or exercising direct or indirect control over, or owning a financial interest of more than one percent in, a contractor or other entity that stands to gain or benefit financially from the award of a procurement contract;

(b) receiving, expecting or attempting to receive compensation, fees, remuneration or other financial gain or benefit from a contractor or other individual or entity that stands to benefit financially from a procurement contract;

(c) being compensated by, or being a member of, an entity or organization which is receiving, expecting or attempting to receive compensation, fees, remuneration or other financial gain from a contractor or other individual or entity that stands to benefit financially from a procurement contract;

(d) receiving, expecting or attempting to receive any other financial gain or benefit as a result of the procurement contract;

(e) being a relative of a person with a financial interest in the procurement, as set forth in paragraphs (a) through (d) of this subdivision. For purposes of this paragraph, "relative" shall mean spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of an individual listed in paragraphs (a) through (d) of this subdivision or of the individual's spouse.

II. Agency and Authority Responsibilities

1. Every covered agency and authority shall ensure that bid or proposal documents for procurement contracts include the name, address, telephone number, place of principal employment and occupation of every person or organization retained, employed or designated by or on behalf of the contractor to attempt to influence the procurement process and whether such person or organization has a financial interest in the procurement.

2. Every covered agency and authority shall ensure that bid or proposal documents for procurement contracts shall include the name, address, telephone number, place of principal employment and occupation of every person or organization subsequently retained, employed or designated by or on behalf of the contractor to attempt to influence the procurement process and whether such person or organization has a financial interest in the procurement. Every covered agency and authority shall ensure that contractors shall inform the agency or authority of the identity of any such persons or organizations prior to such person or organization contacting a covered agency or authority.

3. Prior to making an award of a procurement contract, each covered agency or authority shall make a determination of responsibility of the proposed awardee. Every covered agency and authority shall ensure that bid or proposal documents for procurement contracts shall require

bidders, offerors or proposers to disclose findings of non-responsibility made within the previous five years by any covered agency or authority where such prior finding of non-responsibility was due to intentional provision of false or incomplete information to a covered agency or authority with respect to this Order. In making a determination of responsibility, covered agencies and authorities shall take into account any such prior finding and shall not award a contract to such bidder, offeror or proposer unless the covered agency or authority finds that the procurement contract would be in the best interests of the State notwithstanding the prior finding of non-responsibility, and such agency or authority shall include in its procurement record a statement describing its basis for such determination.

4. Every covered agency and authority shall ensure that any contacts that reasonably appear to be an attempt to influence the procurement process by persons and organizations other than those identified in bid or proposal documents or supplemental bid or proposal documents shall be recorded by the agency. Upon any such contact, the covered agency or authority shall obtain the same information required in bid or proposal documents pursuant to subdivisions 1 and 2 of this Part and inquire, determine and record whether the person or organization making such contact was retained, employed or designated by or on behalf of the contractor to attempt to influence the procurement process and whether such person or organization has a financial interest in the procurement.

5. Every covered agency and authority shall, for each procurement contract, maintain a written record of all persons and organizations identified in subdivisions 1, 2 and 4 of this Part. Such record shall be open to inspection by the public.

6. The failure of a contractor to timely disclose accurate and complete information or to otherwise cooperate with a covered agency or authority in the implementation of this Order shall be considered by such agency or authority in its determination of the responsibility of such contractor, and no procurement contract shall be awarded to any such contractor unless the procurement record contains a written determination by such agency or authority that the contract award would be in the best interests of the State notwithstanding the failure of the contractor to provide such information or to otherwise cooperate.

7. Every procurement contract made subject to this Order shall contain a certification by the awardee that all information provided to the soliciting agency or authority with respect to this Order is complete, true and accurate and each such procurement contract shall contain a provision authorizing the covered agency or authority to terminate such contract in the event such certification is found to be intentionally false or intentionally incomplete.

III. Remedial Action; Guidance; Applicability

1. Any member, officer or employee of a covered agency or authority who fails to comply with the provisions of this Order shall be subject to appropriate disciplinary action by such agency or authority. In addition, where such conduct violates the Public Officers Law, such matter shall be referred to the State Inspector General and the State Ethics Commission, as may be appropriate.

2. Within 45 days of this Order, the Office of General Services shall issue written guidance to covered agencies and authorities regarding the implementation of this Order. Such guidance shall be deemed to be incorporated in this Order to the extent not inconsistent herewith.

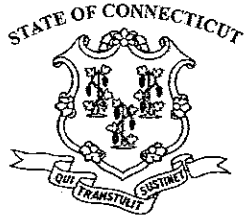
3. The provisions of this Order shall be applicable to procurement contracts with respect to which a solicitation for bids, offers or proposals is made 60 days or more after this Order has taken effect.

4. Nothing in this Order shall be deemed to allow contacts or communications regarding a procurement contract where otherwise prohibited by law, rule, regulation or agency or authority policy.

5. Nothing in this Order shall affect the requirement that members, officers and employees of covered agencies and authorities to report allegations of impropriety involving procurement contracts to appropriate agency personnel, the agency or authority Inspector General, if applicable, and the State Inspector General and the State Ethics Commission, as appropriate.

G I V E N under my hand and the Privy Seal of the State

in the City of Albany this sixteenth day of June in the year two thousand three.
BY THE GOVERNOR /s/ George E. Pataki



General Assembly

January Session, 2003

Raised Bill No. 5156

LCO No. 775

Referred to Committee on Government Administration and
Elections

Introduced by:
(GAE)

***AN ACT EXTENDING THE PENALTY PROVISIONS IN THE STATE
CODE OF ETHICS FOR PUBLIC OFFICIALS TO THOSE WHO
COUNSEL, AUTHORIZE OR OTHERWISE SANCTION CODE
VIOLATIONS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

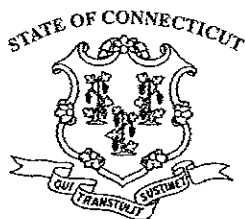
- 1 Section 1. Section 1-84 of the general statutes is amended by adding
2 subsection (p) as follows (*Effective October 1, 2003*):
- 3 (NEW) (p) No public official or state employee shall counsel,
4 authorize or otherwise sanction action that violates any provision of
5 this part.

This act shall take effect as follows:	
Section 1	October 1, 2003

Statement of Purpose:

To extend the penalty provisions in the state code of ethics to public
officials who counsel, authorize or otherwise sanction actions that
violate a provision of the code of ethics for public officials.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



House of Representatives

General Assembly

File No. 34

January Session, 2003

House Bill No. 5155

House of Representatives, March 18, 2003

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE PROHIBITION ON FORMER STATE AND QUASI-PUBLIC OFFICIALS AND EMPLOYEES ACCEPTING EMPLOYMENT WITH STATE CONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (f) and (g) of section 1-84b of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2003*):

4 (f) (1) No former public official or state employee [(1)] (A) who
5 participated substantially in the negotiation or award of [(A)] (i) a state
6 contract valued at an amount of fifty thousand dollars or more, or [(B)]
7 (ii) a written agreement for the approval of a payroll deduction slot
8 described in section 3-123g, or [(2)] (B) who supervised the negotiation
9 or award of such a contract or agreement, shall accept employment
10 with a party to the contract, [or] agreement or negotiation other than
11 the state for a period of one year after [his] the public official's or state

12 employee's resignation from [his] state office or [position if his] state
 13 employment if such resignation occurs less than one year after [the
 14 contract or agreement is signed] the earlier of (i) the date the contract
 15 or agreement is signed, or (ii) the date the official or employee ceases
 16 to supervise, or participate substantially in, the negotiation or award of
 17 the contract or agreement, as determined by regulations which the
 18 commission shall adopt, in accordance with chapter 54.

19 (2) No party to the contract may employ a public official or state
 20 employee if such employment would violate subdivision (1) of this
 21 subsection.

22 (g) (1) No member or director of a quasi-public agency who
 23 participates substantially in the negotiation or award of a contract
 24 valued at an amount of fifty thousand dollars or more, or who
 25 supervised the negotiation or award of such a contract, shall seek,
 26 accept, or hold employment with a party to the contract or negotiation
 27 for a period of one year after [the signing of the contract] the earlier of
 28 (A) the date the contract is signed, or (B) the date the member or
 29 director ceases to participate substantially in the negotiation or award
 30 of the contract, as determined by regulations which the commission
 31 shall adopt, in accordance with chapter 54.

32 (2) No party to the contract may employ a member or director if
 33 such employment would violate subdivision (1) of this subsection.

This act shall take effect as follows:	
Section 1	July 1, 2003

GAE *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

OLR Bill Analysis

HB 5155

AN ACT CONCERNING THE PROHIBITION ON FORMER STATE AND QUASI-PUBLIC OFFICIALS AND EMPLOYEES ACCEPTING EMPLOYMENT WITH STATE CONTRACTORS**SUMMARY:**

This bill extends the post-employment restrictions applicable to certain state officials and employees and quasi-public agency directors and members under the State Ethics Code. By law, former public officials, state employees, and directors and members of quasi-public agencies who substantially participate in or supervise the negotiation or award of (1) contracts worth \$50,000 or more or (2) agreements regarding state payroll check deductions for products or services cannot accept a job with a party to the contract or agreement, other than the state, within one year after they resign, if they resign less than a year after the contract or agreement is signed.

The bill expands the prohibition to include (1) parties to the negotiations for a covered contract or agreement who do not become a party to the contract or agreement and (2) former public officials and state employees who negotiate a covered contract or agreement but resign before it is signed.

The bill prohibits former officials and employees from taking a job within one year of resigning from state service if the resignation occurs less than one year after (1) the contract is signed or (2) they stopped substantially participating in the negotiations, whichever occurs sooner. It prohibits quasi-public agency directors and members from seeking or taking a job within one year after they cease substantial participation in the negotiations or the contract is signed, whichever occurs first.

The bill prohibits parties to the contract from hiring public officials, state employees, and directors and members of quasi-public agencies if to do so would violate the post-employment restriction.

Lastly, the bill requires the State Ethics Commission to determine, in

regulations, when a person ceases to participate substantially.

EFFECTIVE DATE: July 1, 2003

BACKGROUND

Substantial Participation

State Ethics Commission regulations define "substantial participation" in the same way that phrase is used in a prohibition against former executive branch and quasi-public agency officials and state employees representing anyone, other than the state, in any matter in which they participated personally and substantially while in state service. "Substantial participation" means participation that was direct, extensive, and substantive, not peripheral, clerical, or ministerial.

Penalties for Code Violations

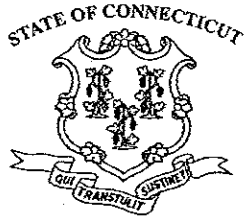
The State Ethics Commission can order code violators to cease and desist the violation or pay a fine of up to \$2,000. The commission may also report violators to the Chief State's Attorney's Office for criminal prosecution. Any person who intentionally violates the code faces a sentence of up to one-year imprisonment, a \$2,000 fine, or both.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Report

Yea 17 Nay 0



General Assembly

January Session, 2003

Proposed Bill No. 6109

LCO No. 2036

Referred to Committee on Government Administration and
Elections

Introduced by:

REP. FLOREN, 149th Dist.

SEN. RORABACK, 30th Dist.

**AN ACT CONCERNING REVOLVING DOOR RESTRICTIONS ON THE
STATE TREASURER.**

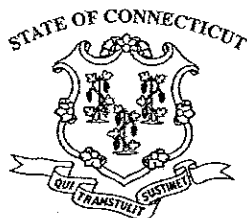
Be it enacted by the Senate and House of Representatives in General
Assembly convened:

- 1 That the general statutes be amended to prohibit the State Treasurer
- 2 from accepting employment, for two years after leaving office, with
- 3 any firm that has done business with the office of the State Treasurer
- 4 during the Treasurer's term of office.

Statement of Purpose:

To prohibit the State Treasurer from accepting employment, for two
years after leaving office, with any firm that has done business with
the office of the treasurer during the State Treasurer's term of office.

13,17-84-6
3-811



General Assembly

February Session, 2004

Raised Bill No. 5436

LCO No. 1528



Referred to Committee on Government Administration and
Elections

Introduced by:
(GAE)

AN ACT CONCERNING STATE AGENCY ETHICS IN CONTRACTING.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

- 1 Section 1. (NEW) (*Effective October 1, 2004*) (a) The Commissioners of
- 2 Public Works, Administrative Services, Information Technology and
- 3 Transportation and the Presidents of The University of Connecticut
- 4 and the Connecticut State University shall each appoint an ethics
- 5 compliance officer for their respective departments and universities.
- 6 Such officer shall be responsible for the development of the state
- 7 agency's ethics policies, coordination of ethics training programs and
- 8 monitoring of agency programs for compliance with agency ethics
- 9 policies and the Ethics Code for Public Officials. At least annually,
- 10 such ethics compliance officer shall provide ethics training to agency
- 11 personnel involved in contractor selection, evaluation and supervision.
- 12 Such training shall include a review of current ethics laws and
- 13 regulations and discussion of ethics issues concerning contracting. In
- 14 addition, such officer may investigate complaints of ethics violations
- 15 by state agency employees or contractors with the state agency. Any
- 16 contractor with such state agency and any employee of such state

17 agency shall provide any requested information to such ethics
18 compliance officer. The ethics compliance officer shall prepare a
19 written report of each investigation and present the officer's findings
20 and conclusions to the agency head, or in the officer's discretion, the
21 Auditors of Public Accounts, the Chief State's Attorney, the State
22 Ethics Commission or the Attorney General.

23 (b) Each state agency and quasi-public agency, as defined in section
24 1-120 of the general statutes, not listed in subsection (a) of this section
25 shall designate an agency officer or employee as a liaison to the State
26 Ethics Commission. The liaison shall coordinate the development of
27 ethics policies for the agency and work with the State Ethics
28 Commission on the training of agency personnel who are involved in
29 contracting on ethics issues.

30 Sec. 2. (NEW) (*Effective October 1, 2004*) Any commissioner, deputy
31 commissioner, state agency or quasi-public agency head or deputy,
32 person in charge of state agency procurement and contracting, ethics
33 compliance officer or designated liaison to the State Ethics
34 Commission who has reasonable cause to believe that a person
35 violated the provisions of the State Code of Ethics for Public Officials
36 or any law or regulation concerning ethics in state contracting shall
37 report such belief to the State Ethics Commission which may further
38 report such information to the Auditor of Public Accounts, Chief
39 State's Attorney, State Ethics Commission or the Attorney General.

40 Sec. 3. (NEW) (*Effective from passage*) As used in sections 3 to 6,
41 inclusive, of this act:

42 (1) "Public official" has the same meaning as provided in section 1-
43 79 of the general statutes, as amended by this act.

44 (2) "State employee" has the same meaning as provided in section 1-
45 79 of the general statutes, as amended by this act.

46 (3) "Crime related to state office or employment" means any of the

47 following criminal offenses committed by a person while serving or
 48 employed as a public official or state employee: (A) The committing,
 49 aiding or abetting of an embezzlement of public funds from the state
 50 or a quasi-public agency; (B) the committing, aiding or abetting of any
 51 felonious theft from the state or a quasi-public agency; (C) bribery in
 52 connection with service or employment as a public official or state
 53 employee; or (D) the committing of any felony by such person who,
 54 wilfully and with the intent to defraud, realizes or obtains, or attempts
 55 to realize or obtain, a profit, gain or advantage for himself or herself or
 56 for some other person, through the use or attempted use of the power,
 57 rights, privileges or duties of his or her position or employment as a
 58 public official or state employee.

59 Sec. 4. (NEW) (*Effective from passage*) (a) Notwithstanding any
 60 provision of the general statutes, if any person is convicted or pleads
 61 guilty or nolo contendere to any crime related to state office or
 62 employment in any federal or state court of competent jurisdiction, the
 63 court, as part of the sentence imposed, may revoke or reduce any
 64 retirement or other benefit or payment of any kind to which the person
 65 is otherwise entitled under the general statutes for service or
 66 employment as a public official or state employee.

67 (b) In determining whether the retirement or other benefit or
 68 payment shall be revoked or reduced, the court shall consider and
 69 make findings on the following factors: (1) The severity of the crime
 70 related to state office employment for which the person has been
 71 convicted or to which the person has pled guilty or nolo contendere;
 72 (2) the amount of monetary loss suffered by the state or by any other
 73 person as a result of the crime related to state office or employment; (3)
 74 the degree of public trust reposed in the person by virtue of the
 75 person's position or employment as a public official or state employee;
 76 and (4) any other factors as, in the judgment of the court, justice may
 77 require.

78 (c) If the court determines that a retirement or other benefit or

79 payment of a person should be revoked or reduced, it may, after
80 taking into consideration the financial needs and resources of any
81 innocent spouse, dependents and designated beneficiaries of the
82 person, order that some or all of the revoked or reduced benefit or
83 payment be paid to any innocent spouse, dependent or beneficiary as
84 justice may require.

85 Sec. 5. (NEW) (*Effective from passage*) (a) Notwithstanding any
86 provision of the general statutes, if (1) any person is convicted or
87 pleads guilty or nolo contendere to any crime related to state office or
88 employment in any federal or state court of competent jurisdiction and
89 the court that imposes the sentence does not make a determination
90 under section 4 of this act concerning the revocation or reduction of a
91 retirement or other benefit or payment that the person is otherwise
92 entitled under the general statutes for service or employment as a
93 public official or state employee, or (2) any person is found by the State
94 Ethics Commission to have knowingly acted in such person's financial
95 interest in, or knowingly receives a financial advantage resulting from,
96 a violation of section 1-84, as amended, 1-85 or 1-86 of the general
97 statutes, the Attorney General, upon the request of the State
98 Employees Retirement Commission or the State Ethics Commission,
99 may initiate a civil action in the superior court for the revocation or
100 reduction of any such benefit or payment. The court shall order the
101 person to appear and show cause as to why any retirement or other
102 benefit or payment to which the person is otherwise entitled under the
103 general statutes should not be withheld pending adjudication of the
104 civil action in the Superior Court.

105 (b) In any civil action under this section for the revocation or
106 reduction of a retirement or other benefit or payment, the court shall
107 determine: (1) Whether the person has been convicted of or pled guilty
108 or nolo contendere to any crime related to state office or employment
109 and, if so; (2) whether the retirement or other benefits or payments to
110 which the person is otherwise entitled should be revoked or reduced
111 and, if so; (3) in what amount or by what proportion such revocation

112 or reduction should be ordered.

113 (c) In determining whether the retirement or other benefit or
114 payment shall be revoked or reduced, the court shall consider and
115 make findings on the following: (1) The severity of the crime related to
116 state office employment for which the person has been convicted or to
117 which the person has pled guilty or nolo contendere; (2) the amount of
118 monetary loss suffered by the state or by any other person as a result
119 of the crime related to state office or employment; (3) the degree of
120 public trust reposed in the person by virtue of the person's position or
121 employment as a public official or state employee; and (4) any other
122 factors as, in the judgment of the court, justice may require.

123 (d) If the court determines that the retirement or other benefit or
124 payment of the person should be revoked or reduced, it may, in its
125 discretion and after taking into consideration the financial needs and
126 resources of any innocent spouse, dependents and designated
127 beneficiaries of the person, order that some or all of the revoked or
128 reduced benefit or payment be paid to any innocent spouse, dependent
129 or beneficiary as justice may require.

130 (e) In the event that the court determines the retirement or other
131 benefit or payment of the person should not be revoked or reduced, it
132 shall deny the relief sought in the petition.

133 Sec. 6. (NEW) (*Effective from passage*) (a) Any person whose
134 retirement or other benefits or payments are revoked pursuant to
135 section 4 or 5 of this act shall be entitled to a return of such person's
136 contribution paid into the relevant pension fund, without interest.

137 (b) Any person whose retirement or other benefits or payments are
138 reduced pursuant to section 4 or 5 of this act shall be entitled to a pro
139 rata return of a portion of his or her contribution paid into the relevant
140 pension fund in an amount proportionate to the amount of any such
141 reduction, without interest.

142 (c) Notwithstanding the provisions of subsections (a) and (b) of this
 143 section, no payments in return of contributions shall be made or
 144 ordered unless and until the superior court determines that the person
 145 whose retirement or other benefits or payments have been revoked or
 146 reduced under section 4 or 5 of this act has satisfied in full any
 147 judgments or orders rendered by any court of competent jurisdiction
 148 for the payment of restitution for losses incurred by any person as a
 149 result of the crime related to state office or employment. If the court
 150 determines that the person whose retirement or other benefits or
 151 payments have been revoked or reduced under section 4 or 5 of this act
 152 has failed to satisfy any outstanding judgment or order of restitution
 153 rendered by any court of competent jurisdiction, it may order that any
 154 funds otherwise due to the person as a return of contribution, or any
 155 portion thereof, be paid in satisfaction of the judgment or order.

156 Sec. 7. (NEW) (*Effective October 1, 2004*) (a) The Attorney General
 157 shall not approve any proposed contract, lease or amendment to a
 158 contract or lease by a state agency or quasi-public agency, having a
 159 cost of more than one hundred thousand dollars, unless the agency
 160 submits to the Attorney General:

161 (1) An affidavit, signed by the official of the contractor or lessor who
 162 executed the contract, lease or amendment, attesting to whether or not
 163 such contractor or lessor, any official or employee of the contractor or
 164 lessor or any agent of such official, employee, contractor or lessor
 165 provided a gift having a value of fifty dollars or more during the ten-
 166 year period preceding the execution of the contract, lease or
 167 amendment to any public official or state employee of the state agency
 168 or quasi-public agency entering into the proposed contract, lease or
 169 amendment or any public official or state employee of any other state
 170 agency having supervisory or appointing authority over such agency.
 171 If any such gift was made under this subdivision, the affidavit shall
 172 include a description of the gift and the value and approximate date of
 173 the gift; and

174 (2) An affidavit, signed by each public official or state employee of
 175 the state agency or quasi-public agency entering into the proposed
 176 contract, lease or amendment who is involved with the selection of the
 177 contractor or lessor, including, but not limited to, members of the
 178 contract or lease selection or evaluation committee, attesting to
 179 whether or not each such official or employee received a gift having a
 180 value of fifty dollars or more during the ten-year period preceding the
 181 execution of the contract, lease or amendment from such contractor or
 182 lessor, any official or employee of the contractor or lessor or any agent
 183 of such official, employee, contractor or lessor. If any such gift was
 184 received under this subdivision, the affidavit shall include a
 185 description of the gift and the value and approximate date of the gift.

186 (b) As used in this section, (1) "quasi-public agency", "public official"
 187 and "state employee" have the same meanings as provided in section 1-
 188 79 of the general statutes, as amended by this act, and (2) "gift" has the
 189 same meaning as provided in said section 1-79, except that the
 190 exclusion in subdivision (12) of subsection (e) of said section 1-79 for a
 191 gift for the celebration of a major life event shall not apply.

192 (c) Any person who knowingly provides a false statement on the
 193 affidavit described in subsection (a) of this section shall be guilty of a
 194 class A misdemeanor.

195 Sec. 8. Subsection (e) of section 1-79 of the general statutes is
 196 repealed and the following is substituted in lieu thereof (*Effective*
 197 *October 1, 2004*):

198 (e) "Gift" means anything of value, which is directly and personally
 199 received, unless consideration of equal or greater value is given in
 200 return. "Gift" shall not include:

201 (1) A political contribution otherwise reported as required by law or
 202 a donation or payment as described in subdivision (9) or (10) of
 203 subsection (b) of section 9-333b;

- 204 (2) Services provided by persons volunteering their time;
- 205 (3) A commercially reasonable loan made on terms not more
206 favorable than loans made in the ordinary course of business;
- 207 (4) A gift received from (A) an individual's spouse, fiance or fiancée,
208 (B) the parent, brother or sister of such spouse or such individual, or
209 (C) the child of such individual or the spouse of such child;
- 210 (5) Goods or services (A) which are provided to the state (i) for use
211 on state property, or (ii) to support an event or the participation by a
212 public official or state employee at an event, and (B) which facilitate
213 state action or functions. As used in this subdivision, "state property"
214 means (i) property owned by the state, or (ii) property leased to an
215 agency in the Executive or Judicial Department of the state;
- 216 (6) A certificate, plaque or other ceremonial award costing less than
217 one hundred dollars;
- 218 (7) A rebate, discount or promotional item available to the general
219 public;
- 220 (8) Printed or recorded informational material germane to state
221 action or functions;
- 222 (9) Food or beverage or both, costing less than fifty dollars in the
223 aggregate per recipient in a calendar year, and consumed on an
224 occasion or occasions at which the person paying, directly or
225 indirectly, for the food or beverage, or his representative, is in
226 attendance;
- 227 (10) Food or beverage or both, costing less than fifty dollars per
228 person and consumed at a publicly noticed legislative reception to
229 which all members of the General Assembly are invited and which is
230 hosted not more than once in any calendar year by a lobbyist or
231 business organization. For the purposes of such limit, (A) a reception
232 hosted by a lobbyist who is an individual shall be deemed to have also

233 been hosted by the business organization which he owns or is
234 employed by, and (B) a reception hosted by a business organization
235 shall be deemed to have also been hosted by all owners and employees
236 of the business organization who are lobbyists. In making the
237 calculation for the purposes of such fifty-dollar limit, the donor shall
238 divide the amount spent on food and beverage by the number of
239 persons whom the donor reasonably expects to attend the reception;

240 (11) Food or beverage or both, costing less than fifty dollars per
241 person and consumed at a publicly noticed reception to which all
242 members of the General Assembly from a region of the state are
243 invited and which is hosted not more than once in any calendar year
244 by a lobbyist or business organization. For the purposes of such limit,
245 (A) a reception hosted by a lobbyist who is an individual shall be
246 deemed to have also been hosted by the business organization which
247 he owns or is employed by, and (B) a reception hosted by a business
248 organization shall be deemed to have also been hosted by all owners
249 and employees of the business organization who are lobbyists. In
250 making the calculation for the purposes of such fifty-dollar limit, the
251 donor shall divide the amount spent on food and beverage by the
252 number of persons whom the donor reasonably expects to attend the
253 reception. As used in this subdivision, "region of the state" means the
254 established geographic service area of the organization hosting the
255 reception;

256 (12) A gift costing less than one hundred dollars, including but not
257 limited to, food or beverage or both, provided by an individual for the
258 celebration of a major life event;

259 (13) Gifts costing less than one hundred dollars in the aggregate or
260 food or beverage provided at a hospitality suite at a meeting or
261 conference of an interstate legislative association, by a person who is
262 not a registrant or is not doing business with the state of Connecticut;

263 (14) Admission to a charitable or civic event, including food and
264 beverage provided at such event, but excluding lodging or travel

265 expenses, at which a public official or state employee participates in
266 his official capacity, provided such admission is provided by the
267 primary sponsoring entity;

268 (15) Anything of value provided by an employer of (A) a public
269 official, (B) a state employee, or (C) a spouse of a public official or state
270 employee, to such official, employee or spouse, provided such benefits
271 are customarily and ordinarily provided to others in similar
272 circumstances; or

273 (16) Anything having a value of not more than ten dollars, provided
274 the aggregate value of all things provided by a donor to a recipient
275 under this subdivision in any calendar year shall not exceed fifty
276 dollars.

277 Sec. 9. Section 1-83 of the general statutes is repealed and the
278 following is substituted in lieu thereof (*Effective October 1, 2004*):

279 (a) (1) All state-wide elected officers, members of the General
280 Assembly, department heads and their deputies, members of the
281 Gaming Policy Board, the executive director of the Division of Special
282 Revenue within the Department of Revenue Services, members or
283 directors of each quasi-public agency, members of the Investment
284 Advisory Council, state marshals and such [members of the] Executive
285 Department and [such employees of] quasi-public [agencies] agency
286 public officials and state employees as the [Governor] State Ethics
287 Commission shall require, including, but not limited to, members of
288 any committee responsible for the evaluation of bids or proposals or
289 the selection of a contractor, for a contract having a cost of more than
290 one hundred thousand dollars, and any other public officials or state
291 employees having significant responsibilities in the awarding of such
292 contracts shall file, under penalty of false statement, a statement of
293 financial interests for the preceding calendar year with the commission
294 on or before the May first next in any year in which they hold such a
295 position. Any such individual who leaves his or her office or position
296 shall file a statement of financial interests covering that portion of the

297 year during which such individual held his or her office or position.
298 The commission shall notify such individuals of the requirements of
299 this subsection within thirty days after their departure from such office
300 or position. Such individuals shall file such statement within sixty days
301 after receipt of the notification.

302 (2) Each state agency, department, board and commission shall
303 develop and implement, in cooperation with the Ethics Commission,
304 an ethics statement as it relates to the mission of the agency,
305 department, board or commission. The executive head of each such
306 agency, department, board or commission shall be directly responsible
307 for the development and enforcement of such ethics statement and
308 shall file a copy of such ethics statement with the Department of
309 Administrative Services and the Ethics Commission.

310 (b) (1) The statement of financial interests, except as provided in
311 subdivision (2) of this subsection, shall include the following
312 information for the preceding calendar year in regard to the individual
313 required to file the statement and the individual's spouse and
314 dependent children residing in the individual's household: (A) The
315 names of all businesses with which associated; (B) the category or type
316 of all sources of income in excess of [one thousand] five hundred
317 dollars, without specifying amounts of income; (C) the name of
318 securities in excess of five thousand dollars at fair market value owned
319 by such individual, spouse or dependent children or held in the name
320 of a corporation, partnership or trust for the benefit of such individual,
321 spouse or dependent children; (D) the existence of any known blind
322 trust and the names of the trustees; (E) all real property and its
323 location, whether owned by such individual, spouse or dependent
324 children or held in the name of a corporation, partnership or trust for
325 the benefit of such individual, spouse or dependent children; (F) the
326 names and addresses of creditors to whom the individual, the
327 individual's spouse or dependent children, individually, owed debts of
328 more than ten thousand dollars; [and] (G) any leases or contracts with
329 the state held or entered into by the individual or a business with

330 which he or she was associated; and (H) a description and estimated
 331 value of each gift received from a person doing business with or
 332 seeking to do business with the department or agency in which the
 333 individual was employed or with any department or agency for which
 334 the individual had appointment or oversight authority, and in the case
 335 of an individual having significant responsibilities in the awarding of
 336 such contracts, a description and estimated value of each gift for the
 337 celebration of a major life event received from any such person. (2) The
 338 statement of financial interests filed by state marshals shall include
 339 only amounts and sources of income earned in their capacity as state
 340 marshals.

341 (c) The statement of financial interests filed pursuant to this section
 342 shall be a matter of public information, except the list of names, filed in
 343 accordance with subparagraph (F) of subdivision (1) of subsection (b)
 344 of this section shall be sealed and confidential and for the use of the
 345 commission only after a complaint has been filed under section 1-82, as
 346 amended by this act, and such complaint has been determined by a
 347 vote of the commission to be of sufficient merit and gravity to justify
 348 the unsealing of such list or lists and not open to public inspection
 349 unless the respondent requests otherwise. If the commission reports its
 350 findings to the Chief State's Attorney in accordance with subsection (c)
 351 of section 1-88, as amended by this act, the commission shall turn over
 352 to the Chief State's Attorney such relevant information contained in the
 353 statement as may be germane to the specific violation or violations or a
 354 prosecutorial official may subpoena such statement in a criminal
 355 action. Unless otherwise a matter of public record, the Ethics
 356 Commission shall not disclose to the public any such subpoena which
 357 would be exempt from disclosure by the issuing agency.

358 (d) Any individual who is unable to provide information required
 359 under the provisions of subdivision (1) of subsection (b) of this section
 360 by reason of impossibility may petition the commission for a waiver of
 361 the requirements.

362 Sec. 10. Subsection (c) of section 1-84 of the general statutes, as
363 amended by section 146 of public act 03-6 of the June 30 special
364 session, is repealed and the following is substituted in lieu thereof
365 (*Effective October 1, 2004*):

366 (c) (1) No public official or state employee shall wilfully and
367 knowingly disclose, for financial gain, to any other person, confidential
368 information acquired by him in the course of and by reason of his
369 official duties or employment and no public official or state employee
370 shall use his public office or position or any confidential information
371 received through his holding such public office or position to obtain
372 financial gain for himself, his spouse, child, child's spouse, parent,
373 brother or sister or a business with which he is associated. (2) No
374 public official or state employee having responsibilities in the
375 awarding of contracts subject to competitive bidding shall wilfully and
376 knowingly disclose confidential information acquired by the official or
377 employee in the course of and by reason of his or her official duties or
378 employment to any other person that would result in the person
379 having an advantage over other persons in the awarding of such
380 contracts.

381 Sec. 11. Subsection (m) of section 1-84 of the general statutes, as
382 amended by section 5 of public act 03-215, is repealed and the
383 following is substituted in lieu thereof (*Effective October 1, 2004*):

384 (m) (1) No Governor, employee of the office of the Governor, the
385 Secretary of the Office of Policy and Management or employee of the
386 Office of Policy and Management shall knowingly accept, directly or
387 indirectly, any gift from any person such official or employee knows or
388 has reason to know is doing business with or seeking to do business
389 with any state agency or quasi-public agency. No person shall
390 knowingly give, directly or indirectly, any gift or gifts in violation of
391 this provision.

392 (2) [No] Except as provided in subdivision (1) of this subsection, no
393 public official or state employee shall knowingly accept, directly or

394 indirectly, any gift, [as defined in subsection (e) of section 1-79,] from
 395 any person the official or employee knows or has reason to know: [(1)]
 396 (A) Is doing business with or seeking to do business with the
 397 department or agency in which the official or employee is employed;
 398 [(2)] (B) is engaged in activities which are directly regulated by such
 399 department or agency; or [(3)] (C) is prequalified under section 3 of
 400 [this act] public act 03-215. No person shall knowingly give, directly or
 401 indirectly, any gift or gifts in violation of this provision.

402 Sec. 12. Section 1-84a of the general statutes is repealed and the
 403 following is substituted in lieu thereof (*Effective October 1, 2004*):

404 (a) No former executive or legislative branch or quasi-public agency
 405 public official or state employee shall disclose or use confidential
 406 information acquired in the course of and by reason of his official
 407 duties, for financial gain for himself or another person.

408 (b) No former executive or legislative branch or quasi-public agency
 409 public official or state employee shall knowingly alter a contract or
 410 take any other action with the intent to avoid the gift affidavit
 411 requirement in section 7 of this act or to avoid review of such contract
 412 by the State Properties Review Board pursuant to section 4b-23, as
 413 amended by this act.

414 Sec. 13. Subsection (d) of section 1-82 of the general statutes is
 415 repealed and the following is substituted in lieu thereof (*Effective*
 416 *October 1, 2004*):

417 (d) No complaint may be made under this section except within
 418 [three] five years next after the violation alleged in the complaint has
 419 been committed.

420 Sec. 14. Section 1-88 of the general statutes is repealed and the
 421 following is substituted in lieu thereof (*Effective October 1, 2004*):

422 (a) The commission, upon a finding made pursuant to section 1-82,
 423 as amended by this act, that there has been a violation of any provision

424 of this part, including, but not limited to, filing a statement of financial
 425 interests under section 1-83, as amended by this act, containing false
 426 information or a material omission, shall have the authority to order
 427 the violator to do any or all of the following: (1) Cease and desist the
 428 violation of this part; (2) file any report, statement or other information
 429 as required by this part; and (3) pay a civil penalty of not more than
 430 two thousand dollars for each violation of this part. The Attorney
 431 General, upon referral by the State Ethics Commission, may bring a
 432 civil action in the superior court for the judicial district of Hartford to
 433 enforce the commissioner's order.

434 (b) Notwithstanding the provisions of subsection (a) of this section,
 435 the commission may, after a hearing conducted in accordance with
 436 sections 4-176e to 4-184, inclusive, upon the concurring vote of five of
 437 its members, impose a civil penalty not to exceed ten dollars per day
 438 upon any individual who fails to file any report, statement or other
 439 information as required by this part. Each distinct violation of this
 440 subsection shall be a separate offense and in case of a continued
 441 violation, each day thereof shall be deemed a separate offense. In no
 442 event shall the aggregate penalty imposed for such failure to file
 443 exceed two thousand dollars.

444 (c) The commission may also report its finding to the Chief State's
 445 Attorney for any action deemed necessary. The commission, upon a
 446 finding made pursuant to section 1-82, as amended by this act, that a
 447 member or member-elect of the General Assembly has violated any
 448 provision of part I of chapter 10, shall notify the appropriate house of
 449 the General Assembly, in writing, of its finding and the basis for such
 450 finding.

451 (d) Any person who knowingly acts in his financial interest in
 452 violation of section 1-84, as amended, 1-85 or 1-86 or any person who
 453 knowingly receives a financial advantage resulting from a violation of
 454 any of said sections shall be liable for damages in the amount of such
 455 advantage. If the commission determines that any person may be so

456 liable, it shall immediately inform the Attorney General of that
457 possibility.

458 (e) Any employee or member of the commission who, in violation of
459 this part, discloses information filed in accordance with subparagraph
460 (B) or subparagraph (F) of subdivision (1) of subsection (b) of section 1-
461 83, shall be dismissed, if an employee, or removed from the
462 commission, if a member.

463 Sec. 15. Section 1-89 of the general statutes is repealed and the
464 following is substituted in lieu thereof (*Effective October 1, 2004*):

465 (a) Any person who intentionally violates any provision of this part
466 shall be imprisoned for a term not to exceed one year or shall be fined
467 an amount not to exceed two thousand dollars, or both, provided no
468 person may be found guilty of a violation of subsection (f) or (g) of
469 section 1-84, as amended, and bribery or bribe receiving under section
470 53a-147, as amended, or 53a-148, as amended, upon the same incident,
471 but such person may be charged and prosecuted for all or any of such
472 offenses upon the same information.

473 (b) The penalties prescribed in this part shall not limit the power of
474 either house of the legislature to discipline its own members or
475 impeach a public official, and shall not limit the power of agencies or
476 commissions to discipline their officials or employees.

477 (c) [The] Notwithstanding the provisions of subsection (d) of section
478 1-82, as amended by this act, the Attorney General may bring a civil
479 action against any person who [may be liable for damages under the
480 provisions of subsection (d) of section 1-88] who knowingly acts in his
481 financial interest in, or knowingly receives a financial advantage
482 resulting from a violation of section 1-84, as amended, 1-85 or 1-86. In
483 any such action, the Attorney General may, in the discretion of the
484 court, recover any financial benefit that accrued to the person as a
485 result of such violation and additional damages in an amount not
486 exceeding twice the amount of the actual damages.

487 (d) Any fines, penalties or damages paid, collected or recovered
488 under section 1-88, as amended by this act, or this section for a
489 violation of any provision of this part applying to the office of the
490 Treasurer shall be deposited on a pro rata basis in any trust funds, as
491 defined in section 3-13c, affected by such violation.

492 Sec. 16. Subsection (g) of section 1-91 of the general statutes is
493 repealed and the following is substituted in lieu thereof (*Effective*
494 *October 1, 2004*):

495 (g) "Gift" means anything of value, which is directly and personally
496 received, unless consideration of equal or greater value is given in
497 return. "Gift" shall not include:

498 (1) A political contribution otherwise reported as required by law or
499 a donation or payment described in subdivision (9) or (10) of
500 subsection (b) of section 9-333b;

501 (2) Services provided by persons volunteering their time;

502 (3) A commercially reasonable loan made on terms not more
503 favorable than loans made in the ordinary course of business;

504 (4) A gift received from (A) the individual's spouse, fiancé or
505 fiancée, (B) the parent, brother or sister of such spouse or such
506 individual, or (C) the child of such individual or the spouse of such
507 child;

508 (5) Goods or services (A) which are provided to the state (i) for use
509 on state property, or (ii) to support an event or the participation by a
510 public official or state employee at an event, and (B) which facilitate
511 state action or functions. As used in this subdivision, "state property"
512 means (i) property owned by the state, or (ii) property leased to an
513 agency in the Executive or Judicial Department of the state;

514 (6) A certificate, plaque or other ceremonial award costing less than
515 one hundred dollars;

516 (7) A rebate, discount or promotional item available to the general
517 public;

518 (8) Printed or recorded informational material germane to state
519 action or functions;

520 (9) Food or beverage or both, costing less than fifty dollars in the
521 aggregate per recipient in a calendar year, and consumed on an
522 occasion or occasions at which the person paying, directly or
523 indirectly, for the food or beverage, or his representative, is in
524 attendance;

525 (10). Food or beverage or both, costing less than fifty dollars per
526 person and consumed at a publicly noticed legislative reception to
527 which all members of the General Assembly are invited and which is
528 hosted not more than once in any calendar year by a lobbyist or
529 business organization. For the purposes of such limit, (A) a reception
530 hosted by a lobbyist who is an individual shall be deemed to have also
531 been hosted by the business organization which he owns or is
532 employed by, and (B) a reception hosted by a business organization
533 shall be deemed to have also been hosted by all owners and employees
534 of the business organization who are lobbyists. In making the
535 calculation for the purposes of such fifty-dollar limit, the donor shall
536 divide the amount spent on food and beverage by the number of
537 persons whom the donor reasonably expects to attend the reception;

538 (11) Food or beverage or both, costing less than fifty dollars per
539 person and consumed at a publicly noticed reception to which all
540 members of the General Assembly from a region of the state are
541 invited and which is hosted not more than once in any calendar year
542 by a lobbyist or business organization. For the purposes of such limit,
543 (A) a reception hosted by a lobbyist who is an individual shall be
544 deemed to have also been hosted by the business organization which
545 he owns or is employed by, and (B) a reception hosted by a business
546 organization shall be deemed to have also been hosted by all owners
547 and employees of the business organization who are lobbyists. In

548 making the calculation for the purposes of such fifty-dollar limit, the
549 donor shall divide the amount spent on food and beverage by the
550 number of persons whom the donor reasonably expects to attend the
551 reception. As used in this subdivision, "region of the state" means the
552 established geographic service area of the organization hosting the
553 reception;

554 (12) A gift costing less than one hundred dollars, including, but not
555 limited to, food or beverage or both, provided by an individual for the
556 celebration of a major life event;

557 (13) Gifts costing less than one hundred dollars in the aggregate or
558 food or beverage provided at a hospitality suite at a meeting or
559 conference of an interstate legislative association, by a person who is
560 not a registrant or is not doing business with the state of Connecticut;

561 (14) Admission to a charitable or civic event, including food and
562 beverage provided at such event, but excluding lodging or travel
563 expenses, at which a public official or state employee participates in
564 his official capacity, provided such admission is provided by the
565 primary sponsoring entity;

566 (15) Anything of value provided by an employer of (A) a public
567 official, (B) a state employee, or (C) a spouse of a public official or state
568 employee, to such official, employee or spouse, provided such benefits
569 are customarily and ordinarily provided to others in similar
570 circumstances; or

571 (16) Anything having a value of not more than ten dollars, provided
572 the aggregate value of all things provided by a donor to a recipient
573 under this subdivision in any calendar year shall not exceed fifty
574 dollars.

575 Sec. 17. Subsection (i) of section 4b-23 of the general statutes is
576 repealed and the following is substituted in lieu thereof (*Effective*
577 *October 1, 2004*):

578 (i) As used in this subsection, (1) "project" means any state program,
 579 except the downtown Hartford higher education center project, as
 580 defined in subsection (l) of section 4b-55, as amended, requiring
 581 consultant services if (A) the cost of such services is estimated to
 582 exceed fifty thousand dollars or, in the case of a constituent unit of the
 583 state system of higher education, the cost of such services is estimated
 584 to exceed three hundred thousand dollars, or (B) (i) the construction
 585 costs in connection with such program are estimated to exceed five
 586 hundred thousand dollars or, in the case of a constituent unit of the
 587 state system of higher education, other than The University of
 588 Connecticut, the construction costs in connection with such program
 589 are estimated to exceed two million dollars, and (ii) the cost of a
 590 consultant services contract for such program exceeds twenty
 591 thousand dollars or the cost of an amendment to a consultant services
 592 contract makes the total cost of the amendment, all previous
 593 amendments to such contract and the contract exceed twenty thousand
 594 dollars for the first time; (2) "consultant" means "consultant" as defined
 595 in section 4b-55, as amended; and (3) "consultant services" means
 596 "consultant services" as defined in section 4b-55, as amended. Any
 597 consultant selected by the commissioner, and any contracts entered
 598 into by the commissioner with any consultants for employment, on
 599 any project under the provisions of this section, shall be subject to the
 600 approval of the State Properties Review Board prior to the
 601 employment of said consultant or consultants by the commissioner.
 602 Such contracts shall be submitted to the State Properties Review Board
 603 along with any affidavit required to be submitted to the Attorney
 604 General pursuant to section 7 of this act. The State Properties Review
 605 Board shall, within thirty days of such submission, approve or
 606 disapprove the selection of or contract with any consultant made by
 607 the Commissioner of Public Works pursuant to sections 4b-1 and 4b-55
 608 to 4b-59, inclusive, as amended. If upon the expiration of the thirty-day
 609 period a decision has not been made, the State Properties Review
 610 Board shall be deemed to have approved such selection or contract.

611 Sec. 18. (NEW) (*Effective October 1, 2004*) Notwithstanding any other

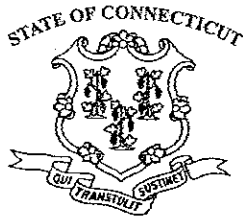
612 provision of the general statutes, the appropriated budget and
 613 allocation amount of the State Ethics Commission, State Elections
 614 Enforcement Commission, Freedom of Information Commission and
 615 the State Properties Review Board shall not be reduced by a percentage
 616 greater than the average reduction of all state agencies.

This act shall take effect as follows:	
Section 1	October 1, 2004
Sec. 2	October 1, 2004
Sec. 3	from passage
Sec. 4	from passage
Sec. 5	from passage
Sec. 6	from passage
Sec. 7	October 1, 2004
Sec. 8	October 1, 2004
Sec. 9	October 1, 2004
Sec. 10	October 1, 2004
Sec. 11	October 1, 2004
Sec. 12	October 1, 2004
Sec. 13	October 1, 2004
Sec. 14	October 1, 2004
Sec. 15	October 1, 2004
Sec. 16	October 1, 2004
Sec. 17	October 1, 2004
Sec. 18	October 1, 2004

Statement of Purpose:

To implement recommendations of the Attorney General to strengthen and clarify provisions of the Code of Ethics for Public Officials concerning the filing of statements of financial interests, gifts to public officials and state employees, and the statute of limitation for ethics violations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



House of Representatives

General Assembly

File No. 491

January Session, 2003

House Bill No. 6096

House of Representatives, April 22, 2003

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT LIMITING CAMPAIGN CONTRIBUTIONS BY STATE CONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-333n of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2003*):

3 (a) No individual shall make a contribution or contributions in any
4 one calendar year in excess of five thousand dollars to the state central
5 committee of any party, or for the benefit of such committee pursuant
6 to its authorization or request; or one thousand dollars to a town
7 committee of any political party, or for the benefit of such committee
8 pursuant to its authorization or request; or one thousand dollars to a
9 political committee other than (1) a political committee formed solely
10 to aid or promote the success or defeat of a referendum question, (2) an
11 exploratory committee, (3) a political committee established by an
12 organization, or for the benefit of such committee pursuant to its

13 authorization or request, or (4) a political committee formed by a slate
14 of candidates in a primary for the position of delegate to the same
15 convention.

16 (b) No individual shall make a contribution to a political committee
17 established by an organization which receives its funds from the
18 organization's treasury. With respect to a political committee
19 established by an organization which has complied with the provisions
20 of subsection (b) or (c) of section 9-333p, and has elected to receive
21 contributions, no individual other than a member of the organization
22 may make contributions to the committee, in which case the individual
23 may contribute not more than five hundred dollars in any one calendar
24 year to such committee or for the benefit of such committee pursuant
25 to its authorization or request.

26 (c) In no event may any individual make contributions to a
27 candidate committee and a political committee formed solely to
28 support one candidate other than an exploratory committee or for the
29 benefit of a candidate committee and a political committee formed
30 solely to support one candidate pursuant to the authorization or
31 request of any such committee, in an amount which in the aggregate is
32 in excess of the maximum amount which may be contributed to the
33 candidate.

34 (d) Any individual may make unlimited contributions or
35 expenditures to aid or promote the success or defeat of any
36 referendum question, provided any individual who makes an
37 expenditure or expenditures in excess of one thousand dollars to
38 promote the success or defeat of any referendum question shall file
39 statements according to the same schedule and in the same manner as
40 is required of a campaign treasurer of a political committee under
41 section 9-333j.

42 (e) Any individual acting alone may, independent of any candidate,
43 agent of the candidate, or committee, make unlimited expenditures to
44 promote the success or defeat of any candidate's campaign for election,
45 or nomination at a primary, to any office or position, provided any

46 individual who makes an independent expenditure or expenditures in
47 excess of one thousand dollars to promote the success or defeat of any
48 candidate's campaign for election, or nomination at a primary, to any
49 such office or position shall file statements according to the same
50 schedule and in the same manner as is required of a campaign
51 treasurer of a candidate committee under section 9-333j.

52 (f) (1) As used in this subsection and subsection (f) of section 9-333j,
53 (A) "investment services" means investment legal services, investment
54 banking services, investment advisory services, underwriting services,
55 financial advisory services or brokerage firm services, and (B)
56 "principal of an investment services firm" means (i) an individual who
57 is a director of or has an ownership interest in an investment services
58 firm to which the State Treasurer pays compensation, expenses or fees
59 or issues a contract, except for an individual who owns less than five
60 per cent of the shares of an investment services firm which is a
61 publicly traded corporation, (ii) an individual who is employed by
62 such an investment services firm as president, treasurer, or executive
63 or senior vice president, (iii) an employee of such an investment
64 services firm who has managerial or discretionary responsibilities with
65 respect to any investment services provided to the State Treasurer, (iv)
66 the spouse or a dependent child of an individual described in this
67 subparagraph, or (v) a political committee established by or on behalf
68 of an individual described in this subparagraph.

69 (2) No principal of an investment services firm shall make a
70 contribution to, or solicit contributions on behalf of, an exploratory
71 committee or candidate committee established by a candidate for
72 nomination or election to the office of State Treasurer during the term
73 of office of the State Treasurer who pays compensation, expenses or
74 fees or issues a contract to such firm.

75 (3) Neither the State Treasurer, the Deputy State Treasurer, any
76 unclassified employee of the office of the State Treasurer acting on
77 behalf of the State Treasurer or Deputy State Treasurer, any candidate
78 for the office of State Treasurer, any member of the Investment

79 Advisory Council established under section 3-13b nor any agent of any
80 such candidate may solicit contributions on behalf of an exploratory
81 committee or candidate committee established by a candidate for
82 nomination or election to any public office, a political committee or a
83 party committee, from a principal of an investment services firm,
84 except that the prohibition in this subsection shall not apply to an
85 incumbent State Treasurer who establishes an exploratory committee
86 or candidate committee for any public office other than State
87 Treasurer.

88 (4) No member of the Investment Advisory Council appointed
89 under section 3-13b shall make a contribution to, or solicit
90 contributions on behalf of, an exploratory committee or candidate
91 committee established by a candidate for nomination or election to the
92 office of State Treasurer.

93 (5) The provisions of this subsection shall not restrict an individual
94 from establishing an exploratory or candidate committee for the
95 individual's own campaign or from soliciting contributions for such
96 committees from persons not prohibited from making contributions
97 under this subsection.

98 (g) (1) As used in this subsection, "state officer" means the Governor,
99 Lieutenant Governor, Secretary of the State, Comptroller or Attorney
100 General.

101 (2) If a state officer awards a contract or contracts which, separately
102 or in the aggregate, have a value of one hundred thousand dollars or
103 more to a business, (A) no individual who is an owner, partner,
104 director or officer of said business, or a manager of said business who
105 has substantial policy or decision-making authority concerning the
106 administration of the contract shall make a contribution or
107 contributions in excess of one hundred dollars to, or for the benefit of,
108 said state officer's campaign for nomination at a primary or reelection
109 to the same office or election to any other public office or to an
110 exploratory committee formed by said state officer, and (B) said state
111 officer and the officer's committee or agent shall not solicit

112 contributions, on behalf of the candidate or exploratory committee
113 established by said state officer or the candidate or exploratory
114 committee established by any other candidate for nomination or
115 election to any other public office or on behalf of any political
116 committee or party committee, from (i) any individual who is an
117 owner, officer, director, partner or such a manager of said business, (ii)
118 any individual who is an owner, officer, director or partner of a
119 subcontractor of said business for such contract or a manager of said
120 subcontractor who has substantial policy or decision-making authority
121 concerning the administration of the subcontract, (iii) the spouse of
122 any such individual or a dependent child of any such individual who
123 resides in the individual's household, or (iv) a political committee
124 established by said business or subcontractor.

125 (3) Each state officer shall keep a list of (A) businesses to which the
126 state officer has awarded a contract or contracts of one hundred
127 thousand dollars or more, and (B) all subcontractors under said
128 contracts. Said list shall be subject to disclosure under the Freedom of
129 Information Act and shall be available to the State Elections
130 Enforcement Commission. Each contract issued by a state officer shall
131 include the provisions of subparagraph (A) of subdivision (2) of this
132 subsection as a condition of the contract. Each business to which a state
133 officer has awarded a contract or contracts of one hundred thousand
134 dollars or more and each subcontractor under said contract shall
135 maintain a list of such business' or subcontractor's owners, partners,
136 directors, officers and managers with substantial policy or decision-
137 making authority related to the administration of such contracts and
138 shall provide such list to the State Elections Enforcement Commission
139 upon request.

140 (4) For purposes of this subsection, (A) a contract awarded by a
141 department head in the executive branch of state government who is
142 appointed by the Governor shall be deemed to have been awarded by
143 the Governor, and (B) a contract awarded by a board, commission,
144 council or other multimember authority, for which a majority of the
145 members are appointed by a single state officer, shall be deemed to

146 have been awarded by said state officer.

147 Sec. 2. Section 9-333w of the general statutes is amended by adding
148 subsection (g) as follows (*Effective July 1, 2003*):

149 (NEW) (g) The campaign treasurer of an exploratory committee or
150 candidate committee established by a candidate for nomination or
151 election as a state officer, as defined in subdivision (1) of subsection (g)
152 of section 9-333n, as amended by this act, which sponsors any written,
153 typed or other printed communication for the purpose of raising funds
154 shall include in such communication a statement concerning the
155 contribution limit set forth in subsection (g) of section 9-333n, as
156 amended by this act.

This act shall take effect as follows:	
Section 1	July 1, 2003
Sec. 2	July 1, 2003

GAE *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Elect. Enforcement Com.	GF - Cost	Potential	Potential
Governor's Off.; Lt. Governor's Off.; Secretary of the State; Attorney General; Comptroller; Various State Agencies	GF - Cost	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill reduces to \$100 the contribution limit to state officers¹ from individuals whose business has contracts with state officers valued at \$100,000 or more. The bill also prohibits state officers from soliciting campaign contributions from individuals whose business has been awarded a contract worth \$100,000 or more by the state officer.

The bill also requires each state officer to keep a list of contractors with business worth \$100,000 or more with the office. There will be a minimal workload increase for each state officer, and various other state agencies, to keep a list of these businesses. This workload increase will not require additional appropriations.

This bill may result in a potential significant increase in the number of complaints and investigations the SEEC handles. It is not known at this time if the SEEC will require additional positions or resources to handle the workload increase.

¹ State officer means the Governor, Lieutenant Governor, Secretary of the State, Comptroller and Attorney General.

OLR Bill Analysis
HB 6096

AN ACT LIMITING CAMPAIGN CONTRIBUTIONS BY STATE CONTRACTORS

SUMMARY:

This bill reduces to \$100 the limit on campaign contributions to state officers running for reelection or election to another office from people who have large contracts with the respective offices of statewide elected officials and from their subcontractors. Currently, individuals can contribute up to \$2,500 to gubernatorial candidates and \$1,500 to candidates for the other state offices. The bill covers the offices of governor, lieutenant governor, attorney general, secretary of the state, state comptroller, and attorney general. The law already bans contributions to candidates for the office of state treasurer from individuals and investment services firms that do business with that office.

The bill also bans the covered state officers from soliciting campaign contributions for their own or anyone else's campaign, or for a party or political committee (known as a PAC) from those with large contracts and subcontracts with their office.

The bill requires state officers to maintain lists of the businesses with large contracts with their offices and the subcontractors for purposes of administering and enforcing its provisions. Campaign contribution solicitations must include notice of the bill's contribution limits that apply to contractors.

EFFECTIVE DATE: July 1, 2003

CONTRIBUTIONS

The bill lowers the contribution limits to \$100 for incumbent state elected officers from individuals doing business with their offices. It applies the lower limits to any individual who is an owner, partner, director, officer, or manager of a business with a contract or contracts worth more than \$100,000 that the officer awarded. It includes the managers who have had substantial or decision-making authority

concerning the state contract's administration. Current limits on an individual's contribution are \$2,500 for gubernatorial candidates and \$1,500 for candidates for the other state offices.

SOLICITATIONS

Under the bill, the governor, lieutenant governor, secretary of the state, comptroller, and attorney general are banned from soliciting a campaign contribution from an individual contractor described above and the owner, officer, director, partner, or manager of any subcontractor of such a contractor. The officer is also barred from soliciting contributions from such a contractor's or subcontractor's spouse and dependent children living in the household, and from their business PACs.

The contribution solicitation restriction applies to an officer's candidate committee for nomination and re-election or election to another office, to his own exploratory committee, to the candidate or exploratory committee of another candidate for any other office, or to any PAC or party committee.

ADMINISTRATION

Each state officer must keep a public list of contractors with business worth \$100,000 or more with the office and their subcontractors. All contracts must include notice of the restriction and businesses with large contracts, along with their subcontractors, must list their owners, partners, directors, officers, and managers. The State Elections Enforcement Commission is entitled to obtain the list upon request.

With respect to the governor, the lower contribution limit applies to anyone with a contract with an executive branch department whose head the governor appoints. For any board, commission, council, or other multimember authority, it applies to the officer who appointed a majority of the members.

The bill requires candidates for state offices to include in their printed contribution solicitations notification of the limits on state contractors' contributions.

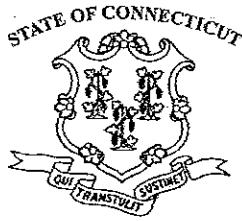
COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Report

Yea 19 Nay 0

5,10-811g



House of Representatives

General Assembly

File No. 299

February Session, 2004

House Bill No. 5501

House of Representatives, March 29, 2004

The Committee on Government Administration and Elections reported, through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

**AN ACT LIMITING CAMPAIGN CONTRIBUTIONS TO CANDIDATES
FOR MUNICIPAL OFFICE BY PERSONS AND POLITICAL
COMMITTEES ASSOCIATED WITH LARGE MUNICIPAL
CONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-333n of the general statutes, as amended by
2 section 14 of public act 03-241, is repealed and the following is
3 substituted in lieu thereof (*Effective July 1, 2004*):

4 (a) No individual shall make a contribution or contributions in any
5 one calendar year in excess of five thousand dollars to the state central
6 committee of any party, or for the benefit of such committee pursuant
7 to its authorization or request; or one thousand dollars to a town
8 committee of any political party, or for the benefit of such committee
9 pursuant to its authorization or request; or one thousand dollars to a
10 political committee other than (1) a political committee formed solely
11 to aid or promote the success or defeat of a referendum question, (2) an

12 exploratory committee, (3) a political committee established by an
13 organization, or for the benefit of such committee pursuant to its
14 authorization or request, or (4) a political committee formed by a slate
15 of candidates in a primary for the office of justice of the peace of the
16 same town.

17 (b) No individual shall make a contribution to a political committee
18 established by an organization which receives its funds from the
19 organization's treasury. With respect to a political committee
20 established by an organization which has complied with the provisions
21 of subsection (b) or (c) of section 9-333p, and has elected to receive
22 contributions, no individual other than a member of the organization
23 may make contributions to the committee, in which case the individual
24 may contribute not more than five hundred dollars in any one calendar
25 year to such committee or for the benefit of such committee pursuant
26 to its authorization or request.

27 (c) In no event may any individual make contributions to a
28 candidate committee and a political committee formed solely to
29 support one candidate other than an exploratory committee or for the
30 benefit of a candidate committee and a political committee formed
31 solely to support one candidate pursuant to the authorization or
32 request of any such committee, in an amount which in the aggregate is
33 in excess of the maximum amount which may be contributed to the
34 candidate.

35 (d) Any individual may make unlimited contributions or
36 expenditures to aid or promote the success or defeat of any
37 referendum question, provided any individual who makes an
38 expenditure or expenditures in excess of one thousand dollars to
39 promote the success or defeat of any referendum question shall file
40 statements according to the same schedule and in the same manner as
41 is required of a campaign treasurer of a political committee under
42 section 9-333j, as amended.

43 (e) Any individual acting alone may, independent of any candidate,
44 agent of the candidate, or committee, make unlimited expenditures to

45 promote the success or defeat of any candidate's campaign for election,
46 or nomination at a primary, to any office or position, provided any
47 individual who makes an independent expenditure or expenditures in
48 excess of one thousand dollars to promote the success or defeat of any
49 candidate's campaign for election, or nomination at a primary, to any
50 such office or position shall file statements according to the same
51 schedule and in the same manner as is required of a campaign
52 treasurer of a candidate committee under section 9-333j, as amended.

53 (f) (1) As used in this subsection and subsection (f) of section 9-333j,
54 as amended, (A) "investment services" means investment legal
55 services, investment banking services, investment advisory services,
56 underwriting services, financial advisory services or brokerage firm
57 services, and (B) "principal of an investment services firm" means (i) an
58 individual who is a director of or has an ownership interest in an
59 investment services firm to which the State Treasurer pays
60 compensation, expenses or fees or issues a contract, except for an
61 individual who owns less than five per cent of the shares of an
62 investment services firm which is a publicly traded corporation, (ii) an
63 individual who is employed by such an investment services firm as
64 president, treasurer, or executive or senior vice president, (iii) an
65 employee of such an investment services firm who has managerial or
66 discretionary responsibilities with respect to any investment services
67 provided to the State Treasurer, (iv) the spouse or a dependent child of
68 an individual described in this subparagraph, or (v) a political
69 committee established by or on behalf of an individual described in
70 this subparagraph.

71 (2) No principal of an investment services firm shall make a
72 contribution to, or solicit contributions on behalf of, an exploratory
73 committee or candidate committee established by a candidate for
74 nomination or election to the office of State Treasurer during the term
75 of office of the State Treasurer who pays compensation, expenses or
76 fees or issues a contract to such firm.

77 (3) Neither the State Treasurer, the Deputy State Treasurer, any

78 unclassified employee of the office of the State Treasurer acting on
79 behalf of the State Treasurer or Deputy State Treasurer, any candidate
80 for the office of State Treasurer, any member of the Investment
81 Advisory Council established under section 3-13b nor any agent of any
82 such candidate may solicit contributions on behalf of an exploratory
83 committee or candidate committee established by a candidate for
84 nomination or election to any public office, a political committee or a
85 party committee, from a principal of an investment services firm,
86 except that the prohibition in this subsection shall not apply to an
87 incumbent State Treasurer who establishes an exploratory committee
88 or candidate committee for any public office other than State
89 Treasurer.

90 (4) No member of the Investment Advisory Council appointed
91 under section 3-13b shall make a contribution to, or solicit
92 contributions on behalf of, an exploratory committee or candidate
93 committee established by a candidate for nomination or election to the
94 office of State Treasurer.

95 (5) The provisions of this subsection shall not restrict an individual
96 from establishing an exploratory or candidate committee for the
97 individual's own campaign or from soliciting contributions for such
98 committees from persons not prohibited from making contributions
99 under this subsection.

100 (g) (1) As used in this subsection, "municipal office" means the office
101 of chief executive officer of a town, city or borough or any other
102 elected office of a municipality.

103 (2) If a municipality awards a contract or contracts which, separately
104 or in the aggregate, have a value of one hundred thousand dollars or
105 more to a business, (A) no individual who is an owner, partner,
106 director or officer of said business, or a manager of said business who
107 has substantial policy or decision-making authority concerning the
108 administration of the contract, and no political committee organized
109 by said business, shall (i) make a contribution or contributions in
110 excess of one hundred dollars (I) to, or for the benefit of, the campaign

111 of any candidate for nomination or election to a municipal office in
112 said municipality or the campaign for nomination or election to a non-
113 municipal office by a person holding a municipal office in said
114 municipality, (II) to an exploratory committee formed by a person
115 holding a municipal office in said municipality, (III) to a political
116 committee under subparagraph (B) of subdivision (3) of section 9-333a,
117 as amended, which is established by any said candidate or said
118 candidate's agent or in consultation with or at the request or
119 suggestion of said candidate or agent or which is controlled by said
120 candidate or agent, or (IV) to a town committee for said municipality,
121 or (ii) solicit contributions on behalf of the candidate or exploratory
122 committee established by any said candidate, and (B) no candidate for
123 nomination or election to a municipal office in said municipality or
124 committee or agent of said candidate shall solicit contributions, on
125 behalf of the candidate or exploratory committee established by said
126 candidate or on behalf of any political committee or party committee,
127 from (i) any individual who is an owner, officer, director, partner or
128 such a manager of said business, (ii) any individual who is an owner,
129 officer, director or partner of a subcontractor of said business for such
130 contract or a manager of said subcontractor who has substantial policy
131 or decision-making authority concerning the administration of the
132 subcontract, (iii) the spouse of any such individual or a dependent
133 child of any such individual who resides in the individual's household,
134 or (iv) a political committee established by said business or
135 subcontractor.

136 (3) Each municipality shall keep a list of (A) businesses to which the
137 municipality has awarded a contract or contracts of one hundred
138 thousand dollars or more, and (B) all subcontractors under said
139 contracts. Said list shall be subject to disclosure under the Freedom of
140 Information Act and shall be available to the State Elections
141 Enforcement Commission. Each contract awarded by a municipality
142 shall include the provisions of subparagraph (A) of subdivision (2) of
143 this subsection as a condition of the contract. Each business to which a
144 municipality has awarded a contract or contracts of one hundred
145 thousand dollars or more and each subcontractor under said contract

146 shall maintain a list of such business' or subcontractor's owners,
147 partners, directors, officers and managers with substantial policy or
148 decision-making authority related to the administration of such
149 contracts and shall provide such list to the State Elections Enforcement
150 Commission upon request.

151 Sec. 2. Section 9-333w of the general statutes is amended by adding
152 subsection (g) as follows (*Effective July 1, 2004*):

153 (NEW) (g) The campaign treasurer of an exploratory committee or
154 candidate committee established by a candidate for nomination or
155 election to a municipal office, as defined in subdivision (1) of
156 subsection (g) of section 9-333n, as amended by this act, which
157 sponsors any written, typed or other printed communication for the
158 purpose of raising funds shall include in such communication a
159 statement concerning the contribution limit set forth in subsection (g)
160 of section 9-333n, as amended by this act.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>

GAE *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill reduces to \$100 the contribution limit to candidates for municipal office from individuals whose business has contracts with their respective municipality valued at \$100,000 or more. The bill also prohibits candidates running for municipal office from soliciting campaign contributions from individuals whose business has been awarded a contract worth \$100,000 or more.

The bill also requires each municipality to keep a list of contractors and their subcontractors who do business worth \$100,000 or more with the municipality. There will be a minimal workload increase for each municipality to keep a list of these businesses, which is not expected to have a fiscal impact.

OLR Bill Analysis
HB 5501

**AN ACT LIMITING CAMPAIGN CONTRIBUTIONS TO CANDIDATES
FOR MUNICIPAL OFFICE BY PERSONS AND POLITICAL
COMMITTEES ASSOCIATED WITH LARGE MUNICIPAL
CONTRACTORS**

SUMMARY:

This bill reduces to \$100 the limit on campaign contributions by businesses that have large municipal contracts (large contractors), their subcontractors, or their political committees (known as PACs) to candidates for municipal office in the awarding municipality, people who are currently holding office there but running for other office, or the town committee. A large contractor has municipal contracts with a separate or aggregate value of \$100,000 or more.

The bill bans the contractors or their PACs from soliciting others to contribute to the covered candidates' campaigns. It also bans the covered candidates from soliciting campaign contributions for their own or anyone else's campaign, or for a party or political committee from large contractors, or their subcontractors, families, or PACs.

The bill requires municipalities to keep a list of large contractors and their subcontractors. It requires the contractors and their subcontractors to keep a list of their owners, partners, directors, officers, and managers with substantial policy or decision-making authority related to the administration of the contracts. Municipalities and contractors must provide their lists to the State Elections Enforcement Commission upon request. The municipalities' lists are a public record, disclosable to the public under the Freedom of Information Act.

Lastly, the bill requires (1) municipalities to make the contribution limit a condition of large contracts and (2) candidates for municipal office to include it in their printed campaign contribution solicitations.

EFFECTIVE DATE: July 1, 2004

CONTRIBUTIONS

The bill lowers the maximum contribution to \$100 candidates for municipal office and people who are currently holding office there but running for other office. Currently, individuals can give candidates for (1) municipal office up to \$1,000, (2) governor up to \$2,500, and (3) other state offices up to \$1,500. And business PACs can give unlimited contributions to town committees, up to \$250 to exploratory committees, and up to \$2,000 to other PACs. "Municipal office" is the office of the chief executive officer of a town, city, or borough, or any other elected municipal office.

The new, lower limit applies to an owner, partner, director, officer, or manager of a business with municipal contracts with a separate or aggregate value of \$100,000 or more and any PAC the business establishes. Managers are covered only if they had substantial policy or decision-making authority concerning the contract's administration.

SOLICITATIONS

The bill bans candidates for municipal office and people who are currently holding office there but running for other office from soliciting a campaign contribution from large contractors; the owner, officer, director, partner, or specified manager of any subcontractor working with the contractor; the contractor's or subcontractor's spouse and dependent children living in the household; or the contractor's or subcontractor's business PAC. To be covered, the manager must have had substantial policy or decision-making authority concerning the contract's administration.

BACKGROUND

Related Bill

SB 434, also favorably reported by the Government Administration and Elections Committee, reduces campaign contribution limits by businesses with large municipal contracts to candidates for municipal office.

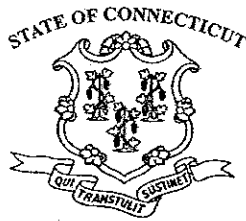
COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Report

Yea 17 Nay 0

5,10-81(g)



General Assembly

February Session, 2004

Raised Bill No. 5022

LCO No. 484



Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT LIMITING CAMPAIGN CONTRIBUTIONS BY STATE CONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-333n of the general statutes, as amended by
2 section 14 of public act 03-241, is repealed and the following is
3 substituted in lieu thereof (*Effective July 1, 2004*):

4 (a) No individual shall make a contribution or contributions in any
5 one calendar year in excess of five thousand dollars to the state central
6 committee of any party, or for the benefit of such committee pursuant
7 to its authorization or request; or one thousand dollars to a town
8 committee of any political party, or for the benefit of such committee
9 pursuant to its authorization or request; or one thousand dollars to a
10 political committee other than (1) a political committee formed solely
11 to aid or promote the success or defeat of a referendum question, (2) an
12 exploratory committee, (3) a political committee established by an
13 organization, or for the benefit of such committee pursuant to its
14 authorization or request, or (4) a political committee formed by a slate
15 of candidates in a primary for the office of justice of the peace of the

16 same town.

17 (b) No individual shall make a contribution to a political committee
 18 established by an organization which receives its funds from the
 19 organization's treasury. With respect to a political committee
 20 established by an organization which has complied with the provisions
 21 of subsection (b) or (c) of section 9-333p, and has elected to receive
 22 contributions, no individual other than a member of the organization
 23 may make contributions to the committee, in which case the individual
 24 may contribute not more than five hundred dollars in any one calendar
 25 year to such committee or for the benefit of such committee pursuant
 26 to its authorization or request.

27 (c) In no event may any individual make contributions to a
 28 candidate committee and a political committee formed solely to
 29 support one candidate other than an exploratory committee or for the
 30 benefit of a candidate committee and a political committee formed
 31 solely to support one candidate pursuant to the authorization or
 32 request of any such committee, in an amount which in the aggregate is
 33 in excess of the maximum amount which may be contributed to the
 34 candidate.

35 (d) Any individual may make unlimited contributions or
 36 expenditures to aid or promote the success or defeat of any
 37 referendum question, provided any individual who makes an
 38 expenditure or expenditures in excess of one thousand dollars to
 39 promote the success or defeat of any referendum question shall file
 40 statements according to the same schedule and in the same manner as
 41 is required of a campaign treasurer of a political committee under
 42 section 9-333j, as amended.

43 (e) Any individual acting alone may, independent of any candidate,
 44 agent of the candidate, or committee, make unlimited expenditures to
 45 promote the success or defeat of any candidate's campaign for election,
 46 or nomination at a primary, to any office or position, provided any
 47 individual who makes an independent expenditure or expenditures in

48 excess of one thousand dollars to promote the success or defeat of any
49 candidate's campaign for election, or nomination at a primary, to any
50 such office or position shall file statements according to the same
51 schedule and in the same manner as is required of a campaign
52 treasurer of a candidate committee under section 9-333j, as amended.

53 (f) (1) As used in this subsection and subsection (f) of section 9-333j,
54 (A) "investment services" means investment legal services, investment
55 banking services, investment advisory services, underwriting services,
56 financial advisory services or brokerage firm services, and (B)
57 "principal of an investment services firm" means (i) an individual who
58 is a director of or has an ownership interest in an investment services
59 firm to which the State Treasurer pays compensation, expenses or fees
60 or issues a contract, except for an individual who owns less than five
61 per cent of the shares of an investment services firm which is a
62 publicly traded corporation, (ii) an individual who is employed by
63 such an investment services firm as president, treasurer, or executive
64 or senior vice president, (iii) an employee of such an investment
65 services firm who has managerial or discretionary responsibilities with
66 respect to any investment services provided to the State Treasurer, (iv)
67 the spouse or a dependent child of an individual described in this
68 subparagraph, or (v) a political committee established by or on behalf
69 of an individual described in this subparagraph.

70 (2) No principal of an investment services firm shall make a
71 contribution to, or solicit contributions on behalf of, an exploratory
72 committee or candidate committee established by a candidate for
73 nomination or election to the office of State Treasurer during the term
74 of office of the State Treasurer who pays compensation, expenses or
75 fees or issues a contract to such firm.

76 (3) Neither the State Treasurer, the Deputy State Treasurer, any
77 unclassified employee of the office of the State Treasurer acting on
78 behalf of the State Treasurer or Deputy State Treasurer, any candidate
79 for the office of State Treasurer, any member of the Investment

80 Advisory Council established under section 3-13b nor any agent of any
81 such candidate may solicit contributions on behalf of an exploratory
82 committee or candidate committee established by a candidate for
83 nomination or election to any public office, a political committee or a
84 party committee, from a principal of an investment services firm,
85 except that the prohibition in this subsection shall not apply to an
86 incumbent State Treasurer who establishes an exploratory committee
87 or candidate committee for any public office other than State
88 Treasurer.

89 (4) No member of the Investment Advisory Council appointed
90 under section 3-13b shall make a contribution to, or solicit
91 contributions on behalf of, an exploratory committee or candidate
92 committee established by a candidate for nomination or election to the
93 office of State Treasurer.

94 (5) The provisions of this subsection shall not restrict an individual
95 from establishing an exploratory or candidate committee for the
96 individual's own campaign or from soliciting contributions for such
97 committees from persons not prohibited from making contributions
98 under this subsection.

99 (g) (1) As used in this subsection, "state officer" means the Governor,
100 Lieutenant Governor, Secretary of the State, Comptroller or Attorney
101 General.

102 (2) If a state officer awards a contract or contracts which, separately
103 or in the aggregate, have a value of one hundred thousand dollars or
104 more to a business, (A) no individual who is an owner, partner,
105 director or officer of said business, or a manager of said business who
106 has substantial policy or decision-making authority concerning the
107 administration of the contract shall make a contribution or
108 contributions in excess of one hundred dollars to, or for the benefit of,
109 said state officer's campaign for nomination at a primary or reelection
110 to the same office or election to any other public office or to an
111 exploratory committee formed by said state officer, and (B) said state

112 officer and the officer's committee or agent shall not solicit
 113 contributions, on behalf of the candidate or exploratory committee
 114 established by said state officer or the candidate or exploratory
 115 committee established by any other candidate for nomination or
 116 election to any other public office or on behalf of any political
 117 committee or party committee, from (i) any individual who is an
 118 owner, officer, director, partner or such a manager of said business, (ii)
 119 any individual who is an owner, officer, director or partner of a
 120 subcontractor of said business for such contract or a manager of said
 121 subcontractor who has substantial policy or decision-making authority
 122 concerning the administration of the subcontract, (iii) the spouse of
 123 any such individual or a dependent child of any such individual who
 124 resides in the individual's household, or (iv) a political committee
 125 established by said business or subcontractor.

126 (3) Each state officer shall keep a list of (A) businesses to which the
 127 state officer has awarded a contract or contracts of one hundred
 128 thousand dollars or more, and (B) all subcontractors under said
 129 contracts. Said list shall be subject to disclosure under the Freedom of
 130 Information Act and shall be available to the State Elections
 131 Enforcement Commission. Each contract issued by a state officer shall
 132 include the provisions of subparagraph (A) of subdivision (2) of this
 133 subsection as a condition of the contract. Each business to which a state
 134 officer has awarded a contract or contracts of one hundred thousand
 135 dollars or more and each subcontractor under said contract shall
 136 maintain a list of such business' or subcontractor's owners, partners,
 137 directors, officers and managers with substantial policy or decision-
 138 making authority related to the administration of such contracts and
 139 shall provide such list to the State Elections Enforcement Commission
 140 upon request.

141 (4) For purposes of this subsection, (A) a contract awarded by a
 142 department head in the executive branch of state government who is
 143 appointed by the Governor shall be deemed to have been awarded by
 144 the Governor, and (B) a contract awarded by a board, commission,

145 council or other multimember authority, for which a majority of the
 146 members are appointed by a single state officer, shall be deemed to
 147 have been awarded by said state officer.

148 Sec. 2. Section 9-333w of the general statutes is amended by adding
 149 subsection (g) as follows (*Effective July 1, 2004*):

150 (NEW) (g) The campaign treasurer of an exploratory committee or
 151 candidate committee established by a candidate for nomination or
 152 election as a state officer, as defined in subdivision (1) of subsection (g)
 153 of section 9-333n, as amended by this act, which sponsors any written,
 154 typed or other printed communication for the purpose of raising funds
 155 shall include in such communication a statement concerning the
 156 contribution limit set forth in subsection (g) of section 9-333n, as
 157 amended by this act.

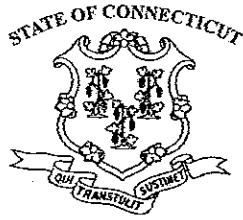
This act shall take effect as follows:	
Section 1	July 1, 2004
Sec. 2	July 1, 2004

Statement of Purpose:

To (1) impose a limit on contributions of one hundred dollars to the candidate committee of a state-wide elected official from the owners, partners and managers of any firm that has a substantial government contract with such state-wide elected official, (2) prohibit any such state-wide elected official from soliciting contributions from any such owner, partner or manager of such contractor, any owner, partner or manager of a subcontractor on such government contract, any affiliated political committee of such persons, contractor or subcontractor and the immediate family members of such persons, (3) require the establishment and publication of a list of all such contracts and the parties to such contracts, and (4) require a clause in all such contracts setting forth the contribution limit as a condition of the contract, the violation of which may result in the voiding of such contract.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

5,10-819)



Senate

General Assembly

File No. 336

February Session, 2004

Senate Bill No. 434

Senate, March 30, 2004

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

**AN ACT LIMITING CAMPAIGN CONTRIBUTIONS TO CANDIDATES
FOR STATE OFFICE BY PERSONS AND POLITICAL COMMITTEES
ASSOCIATED WITH LARGE STATE CONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-333n of the general statutes, as amended by
2 section 14 of public act 03-241, is repealed and the following is
3 substituted in lieu thereof (*Effective July 1, 2004*):

4 (a) No individual shall make a contribution or contributions in any
5 one calendar year in excess of five thousand dollars to the state central
6 committee of any party, or for the benefit of such committee pursuant
7 to its authorization or request; or one thousand dollars to a town
8 committee of any political party, or for the benefit of such committee
9 pursuant to its authorization or request; or one thousand dollars to a
10 political committee other than (1) a political committee formed solely
11 to aid or promote the success or defeat of a referendum question, (2) an
12 exploratory committee, (3) a political committee established by an

13 organization, or for the benefit of such committee pursuant to its
14 authorization or request, or (4) a political committee formed by a slate
15 of candidates in a primary for the office of justice of the peace of the
16 same town.

17 (b) No individual shall make a contribution to a political committee
18 established by an organization which receives its funds from the
19 organization's treasury. With respect to a political committee
20 established by an organization which has complied with the provisions
21 of subsection (b) or (c) of section 9-333p, and has elected to receive
22 contributions, no individual other than a member of the organization
23 may make contributions to the committee, in which case the individual
24 may contribute not more than five hundred dollars in any one calendar
25 year to such committee or for the benefit of such committee pursuant
26 to its authorization or request.

27 (c) In no event may any individual make contributions to a
28 candidate committee and a political committee formed solely to
29 support one candidate other than an exploratory committee or for the
30 benefit of a candidate committee and a political committee formed
31 solely to support one candidate pursuant to the authorization or
32 request of any such committee, in an amount which in the aggregate is
33 in excess of the maximum amount which may be contributed to the
34 candidate.

35 (d) Any individual may make unlimited contributions or
36 expenditures to aid or promote the success or defeat of any
37 referendum question, provided any individual who makes an
38 expenditure or expenditures in excess of one thousand dollars to
39 promote the success or defeat of any referendum question shall file
40 statements according to the same schedule and in the same manner as
41 is required of a campaign treasurer of a political committee under
42 section 9-333j, as amended.

43 (e) Any individual acting alone may, independent of any candidate,
44 agent of the candidate, or committee, make unlimited expenditures to
45 promote the success or defeat of any candidate's campaign for election,

46 or nomination at a primary, to any office or position, provided any
47 individual who makes an independent expenditure or expenditures in
48 excess of one thousand dollars to promote the success or defeat of any
49 candidate's campaign for election, or nomination at a primary, to any
50 such office or position shall file statements according to the same
51 schedule and in the same manner as is required of a campaign
52 treasurer of a candidate committee under section 9-333j, as amended.

53 (f) (1) As used in this subsection and subsection (f) of section 9-333j,
54 as amended, (A) "investment services" means investment legal
55 services, investment banking services, investment advisory services,
56 underwriting services, financial advisory services or brokerage firm
57 services, and (B) "principal of an investment services firm" means (i) an
58 individual who is a director of or has an ownership interest in an
59 investment services firm to which the State Treasurer pays
60 compensation, expenses or fees or issues a contract, except for an
61 individual who owns less than five per cent of the shares of an
62 investment services firm which is a publicly traded corporation, (ii) an
63 individual who is employed by such an investment services firm as
64 president, treasurer, or executive or senior vice president, (iii) an
65 employee of such an investment services firm who has managerial or
66 discretionary responsibilities with respect to any investment services
67 provided to the State Treasurer, (iv) the spouse or a dependent child of
68 an individual described in this subparagraph, or (v) a political
69 committee established by or on behalf of an individual described in
70 this subparagraph.

71 (2) No principal of an investment services firm shall make a
72 contribution to, or solicit contributions on behalf of, an exploratory
73 committee or candidate committee established by a candidate for
74 nomination or election to the office of State Treasurer during the term
75 of office of the State Treasurer who pays compensation, expenses or
76 fees or issues a contract to such firm.

77 (3) Neither the State Treasurer, the Deputy State Treasurer, any
78 unclassified employee of the office of the State Treasurer acting on

79 behalf of the State Treasurer or Deputy State Treasurer, any candidate
80 for the office of State Treasurer, any member of the Investment
81 Advisory Council established under section 3-13b nor any agent of any
82 such candidate may solicit contributions on behalf of an exploratory
83 committee or candidate committee established by a candidate for
84 nomination or election to any public office, a political committee or a
85 party committee, from a principal of an investment services firm,
86 except that the prohibition in this subsection shall not apply to an
87 incumbent State Treasurer who establishes an exploratory committee
88 or candidate committee for any public office other than State
89 Treasurer.

90 (4) No member of the Investment Advisory Council appointed
91 under section 3-13b shall make a contribution to, or solicit
92 contributions on behalf of, an exploratory committee or candidate
93 committee established by a candidate for nomination or election to the
94 office of State Treasurer.

95 (5) The provisions of this subsection shall not restrict an individual
96 from establishing an exploratory or candidate committee for the
97 individual's own campaign or from soliciting contributions for such
98 committees from persons not prohibited from making contributions
99 under this subsection.

100 (g) (1) As used in this subsection, "state officer" means the Governor,
101 Lieutenant Governor, Secretary of the State, State Comptroller or
102 Attorney General.

103 (2) If a state officer awards a contract or contracts which, separately
104 or in the aggregate, have a value of one hundred thousand dollars or
105 more to a business, (A) no individual who is an owner, partner,
106 director or officer of said business, or a manager of said business who
107 has substantial policy or decision-making authority concerning the
108 administration of the contract, and no political committee organized
109 by said business, shall (i) make a contribution or contributions in
110 excess of one hundred dollars (I) to, or for the benefit of, any
111 candidate's campaign for nomination or election to the office held by

112 said state officer or to said state officer's campaign for nomination or
113 election to any other public office, (II) to an exploratory committee
114 formed by said state officer, or (III) to a political committee under
115 subparagraph (B) of subdivision (3) of section 9-333a, as amended,
116 which is established by any said candidate or said candidate's agent or
117 in consultation with or at the request or suggestion of said candidate
118 or agent or which is controlled by said candidate or agent, or (ii) solicit
119 contributions on behalf of the candidate or exploratory committee
120 established by any said candidate, and (B) no such state officer or
121 committee or agent of the state officer shall solicit contributions, on
122 behalf of the candidate or exploratory committee established by said
123 state officer or the candidate or exploratory committee established by
124 any other candidate for nomination or election to any other public
125 office or on behalf of any political committee or party committee, and
126 no candidate for the nomination or election to the office held by said
127 state officer shall solicit any contribution, on behalf of the candidate
128 committee established by said candidate or the candidate or
129 exploratory committee established by any other candidate for
130 nomination or election to any other public office or on behalf of any
131 political committee or party committee, from (i) any individual who is
132 an owner, officer, director, partner or such a manager of said business,
133 (ii) any individual who is an owner, officer, director or partner of a
134 subcontractor of said business for such contract or a manager of said
135 subcontractor who has substantial policy or decision-making authority
136 concerning the administration of the subcontract, (iii) the spouse of
137 any such individual or a dependent child of any such individual who
138 resides in the individual's household, or (iv) a political committee
139 established by said business or subcontractor.

140 (3) Each state officer shall keep a list of (A) businesses to which the
141 state officer has awarded a contract or contracts of one hundred
142 thousand dollars or more, and (B) all subcontractors under said
143 contracts. Said list shall be subject to disclosure under the Freedom of
144 Information Act and shall be available to the State Elections
145 Enforcement Commission. Each contract awarded by a state officer
146 shall include the provisions of subparagraph (A) of subdivision (2) of

147 this subsection as a condition of the contract. Each business to which a
148 state officer has awarded a contract or contracts of one hundred
149 thousand dollars or more and each subcontractor under said contract
150 shall maintain a list of such business' or subcontractor's owners,
151 partners, directors, officers and managers with substantial policy or
152 decision-making authority related to the administration of such
153 contracts and shall provide such list to the State Elections Enforcement
154 Commission upon request.

155 (4) For purposes of this subsection, (A) a contract awarded by a
156 department head in the executive branch of state government who is
157 appointed by the Governor shall be deemed to have been awarded by
158 the Governor, and (B) a contract awarded by a board, commission,
159 council or other multimember authority, for which a majority of the
160 members are appointed by a single state officer, shall be deemed to
161 have been awarded by said state officer.

162 Sec. 2. Section 9-333w of the general statutes is amended by adding
163 subsection (g) as follows (*Effective July 1, 2004*):

164 (NEW) (g) The campaign treasurer of an exploratory committee or
165 candidate committee established by a candidate for nomination or
166 election as a state officer, as defined in subdivision (1) of subsection (g)
167 of section 9-333n, as amended by this act, which sponsors any written,
168 typed or other printed communication for the purpose of raising funds
169 shall include in such communication a statement concerning the
170 contribution limit set forth in subsection (g) of section 9-333n, as
171 amended by this act.

This act shall take effect as follows:	
Section 1	July 1, 2004
Sec. 2	July 1, 2004

GAE *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Elect. Enforcement Com.	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill reduces to \$100 the contribution limit to state officers¹ from individuals whose business has contracts with state officers valued at \$100,000 or more. The bill also prohibits state officers from soliciting campaign contributions from individuals whose business has been awarded a contract worth \$100,000 or more by the state officer.

The bill also requires each state officer to keep a list of contractors with business worth \$100,000 or more with the office. There will be a minimal workload increase for each state officer, and various other state agencies, to keep a list of these businesses. This workload increase will not require additional appropriations.

This bill may result in a potential significant increase in the number of complaints and investigations the SEEC handles. It is not known at this time if the SEEC will require additional positions or resources to handle the workload increase.

¹ State office means the Governor, Lieutenant Governor, Secretary of the State, Comptroller, Attorney General.

OLR Bill Analysis

SB 434

**AN ACT LIMITING CAMPAIGN CONTRIBUTIONS TO CANDIDATES
FOR STATE OFFICE BY PERSONS AND POLITICAL COMMITTEES
ASSOCIATED WITH LARGE STATE CONTRACTORS****SUMMARY:**

This bill reduces to \$100 the limit on campaign contributions to state officers running for reelection or election to another office from people who have large contracts with the respective offices of statewide elected officials (large contractors) or their political committees (known as a PAC). It bans the covered contractors from soliciting contributions on behalf of these candidates. The bill covers the offices of governor, lieutenant governor, attorney general, secretary of the state, and state comptroller. The law already bans contributions to candidates for the office of state treasurer from individuals and investment services firms that do business with that office.

With respect to the governor, the bill's lower contribution limit applies to anyone with a contract with an executive branch department whose head the governor appoints. For any board, commission, council, or other multimember authority, it applies to the officer who appointed a majority of the members.

The bill also bans the covered state officers from soliciting campaign contributions for their own or anyone else's campaign, or for a party or political committee from those with large contracts and subcontracts with their office.

The bill requires state officers to maintain lists of large contractors and their subcontractors. It requires the contractors and their subcontractors to keep a list of their owners, partners, directors, officers, and managers with substantial policy or decision-making authority related to the administration of the contracts. The officers and contractors must provide their list to the State Elections Enforcement Commission upon request. Each state officer's list is a public record that is discloable under the Freedom of Information Act.

Lastly, the bill requires that the contribution limit be included as a

condition in contracts the state officer award and in candidates' campaign contribution solicitations.

EFFECTIVE DATE: July 1, 2004

CONTRIBUTIONS

The bill lowers the contribution limits to \$100 for incumbent state elected officers to a candidate committee, exploratory committee, or PAC the officers or their agents establish from large contractors or PACs that they establish. It applies the lower limits to any individual who is an owner, partner, director, officer, or specified manager of a business with a contract or contracts worth more than \$100,000 that the officer awarded. It includes the managers who have had substantial or decision-making authority concerning the state contract's administration. Current limits on an individual's contributions are \$2,500 for gubernatorial candidates, \$1,500 for candidates for the other state offices, \$250 to an exploratory committee, and \$1,000 to a PAC. And business PACs can currently give up to \$5,000 to gubernatorial candidates, \$3,000 to candidates for other state offices, \$250 to exploratory committees, and \$2,000 to other PACs.

SOLICITATIONS

Under the bill, the governor, lieutenant governor, secretary of the state, comptroller, and attorney general (and their committees and agents) are banned from soliciting a campaign contribution from a large contractor or the owner, officer, director, partner, or manager of any subcontractor of such a contractor. The officer is also barred from soliciting contributions from such a contractor's or subcontractor's spouse and dependent children living in the household, and from their business PACs.

The contribution solicitation restriction applies to an officer's own candidate or exploratory committee for nomination and re-election or election to another office, to the candidate or exploratory committee of another candidate for any other office, or to any PAC or party committee.

The bill prohibits large contractors from soliciting contributions on behalf of a state officer's candidate or exploratory committee.

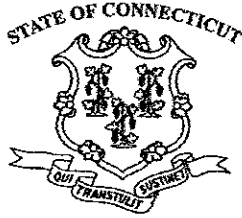
COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Report

Yea 13 Nay 4

5-87(g), 10-87(g)



House of Representatives

General Assembly

File No. 326

February Session, 2004

Substitute House Bill No. 5431

House of Representatives, March 30, 2004

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT REFORMING CAMPAIGN FINANCE LAWS CONCERNING CONTRIBUTIONS FROM POLITICAL COMMITTEES, LOBBYISTS AND LARGE STATE CONTRACTORS AND THE REPORTING AND LIMITATION ON PURCHASES OF ADVERTISING SPACE IN AD BOOKS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-333a of the general statutes, as amended by
2 section 10 of public act 03-241, is repealed and the following is
3 substituted in lieu thereof (*Effective July 1, 2004*):

4 As used in this chapter:

5 (1) "Committee" means a party committee, political committee or a
6 candidate committee organized, as the case may be, for a single
7 primary, election or referendum, or for ongoing political activities, to
8 aid or promote the success or defeat of any political party, any one or
9 more candidates for public office or the position of town committee

10 member or any referendum question.

11 (2) "Party committee" means a state central committee, [or] a town
12 committee or a legislative caucus committee. "Party committee" does
13 not mean a party-affiliated or district, ward or borough committee
14 which receives all of its funds from the state central committee of its
15 party or from a single town committee with the same party affiliation.
16 Any such committee so funded shall be construed to be a part of its
17 state central or town committee for purposes of this chapter.

18 (3) "Legislative caucus committee" means a single committee
19 designated by the majority of the members of a political party who are
20 also state representatives or state senators, which designation is
21 certified by the chairperson of the committee on the registration filed
22 with the Secretary of the State. The committee shall be identified by the
23 house of the General Assembly in which such legislators serve and the
24 political party to which they belong.

25 [(3)] (4) "Political committee" means (A) a committee organized by a
26 business entity or organization, (B) persons other than individuals, or
27 two or more individuals organized or acting jointly conducting their
28 activities in or outside the state, (C) a committee established by a
29 candidate to determine the particular public office to which he shall
30 seek nomination or election, and referred to in this chapter as an
31 exploratory committee, or (D) a committee established by or on behalf
32 of a slate of candidates in a primary for the office of justice of the
33 peace, but does not mean a candidate committee or a party committee.

34 [(4)] (5) "Candidate committee" means any committee designated by
35 a single candidate, or established with the consent, authorization or
36 cooperation of a candidate, for the purpose of a single primary or
37 election and to aid or promote his candidacy alone for a particular
38 public office or the position of town committee member, but does not
39 mean a political committee or a party committee.

40 [(5)] (6) "National committee" means the organization which
41 according to the bylaws of a political party is responsible for the day-

42 to-day operation of the party at the national level.

43 [(6)] (7) "Organization" means all labor organizations, (A) as defined
44 in the Labor-Management Reporting and Disclosure Act of 1959, as
45 from time to time amended, or (B) as defined in subdivision (9) of
46 section 31-101, employee organizations, as defined in subsection (d) of
47 section 5-270, and subdivision (6) of section 7-467, bargaining
48 representative organizations for teachers, any local, state or national
49 organization, to which a labor organization pays membership or per
50 capita fees, based upon its affiliation or membership, and trade or
51 professional associations which receive their funds exclusively from
52 membership dues, whether organized in or outside of this state, but
53 does not mean a candidate committee, party committee or a political
54 committee.

55 [(7)] (8) "Business entity" means the following, whether organized in
56 or outside of this state: Stock corporations, banks, insurance
57 companies, business associations, bankers associations, insurance
58 associations, trade or professional associations which receive funds
59 from membership dues and other sources, partnerships, joint ventures,
60 private foundations, as defined in Section 509 of the Internal Revenue
61 Code of 1986, or any subsequent corresponding internal revenue code
62 of the United States, as from time to time amended; trusts or estates;
63 corporations organized under sections 38a-175 to 38a-192, inclusive,
64 38a-199 to 38a-209, inclusive, and 38a-214 to 38a-225, inclusive, and
65 chapters 594 to 597, inclusive; cooperatives, and any other association,
66 organization or entity which is engaged in the operation of a business
67 or profit-making activity; but does not include professional service
68 corporations organized under chapter 594a and owned by a single
69 individual, nonstock corporations which are not engaged in business
70 or profit-making activity, organizations, as defined in subdivision (6)
71 of this section, candidate committees, party committees and political
72 committees as defined in this section. For purposes of this chapter,
73 corporations which are component members of a controlled group of
74 corporations, as those terms are defined in Section 1563 of the Internal
75 Revenue Code of 1986, or any subsequent corresponding internal

76 revenue code of the United States, as from time to time amended, shall
77 be deemed to be one corporation.

78 [(8)] (9) "Individual" means a human being, a sole proprietorship, or
79 a professional service corporation organized under chapter 594a and
80 owned by a single human being.

81 [(9)] (10) "Person" means an individual, committee, firm,
82 partnership, organization, association, syndicate, company trust,
83 corporation, limited liability company or any other legal entity of any
84 kind but does not mean the state or any political or administrative
85 subdivision of the state.

86 [(10)] (11) "Candidate" means an individual who seeks nomination
87 for election or election to public office whether or not such individual
88 is elected, and for the purposes of this chapter an individual shall be
89 deemed to seek nomination for election or election if he has (A) been
90 endorsed by a party or become eligible for a position on the ballot at an
91 election or primary, or (B) solicited or received contributions, made
92 expenditures or given his consent to any other person to solicit or
93 receive contributions or make expenditures with the intent to bring
94 about his nomination for election or election to any such office.
95 "Candidate" also means a slate of candidates which is to appear on the
96 ballot in a primary for the office of justice of the peace. For the
97 purposes of sections 9-333 to 9-333l, inclusive, as amended by this act,
98 and section 9-333w, "candidate" also means an individual who is a
99 candidate in a primary for town committee members.

100 [(11)] (12) "Campaign treasurer" means the individual appointed by
101 a candidate or by the chairman of a party committee or a political
102 committee to receive and disburse funds on behalf of the candidate or
103 committee.

104 [(12)] (13) "Deputy campaign treasurer" means the individual
105 appointed by the candidate or by the chairman of a committee to serve
106 in the capacity of the campaign treasurer if the campaign treasurer is
107 unable to perform his duties.

108 [(13)] (14) "Solicitor" means an individual appointed by a campaign
109 treasurer of a committee to receive, but not to disburse, funds on
110 behalf of the committee.

111 [(14)] (15) "Referendum question" means a question to be voted
112 upon at any election or referendum, including a proposed
113 constitutional amendment.

114 [(15)] (16) "Lobbyist" means a lobbyist, as defined in subsection (l) of
115 section 1-91.

116 [(16)] (17) "Business with which he is associated" means any
117 business in which the contributor is a director, officer, owner, limited
118 or general partner or holder of stock constituting five per cent or more
119 of the total outstanding stock of any class. Officer refers only to the
120 president, executive or senior vice-president or treasurer of such
121 business.

122 [(17)] (18) "Independent expenditure" means an expenditure that is
123 made without the consent, knowing participation, or consultation of, a
124 candidate or agent of the candidate committee. "Independent
125 expenditure" does not include an expenditure (A) if there is any
126 coordination or direction with respect to the expenditure between the
127 candidate or the treasurer, deputy treasurer or chairman of his
128 candidate committee and the person making the expenditure, or (B) if,
129 during the same election cycle, the individual making the expenditure
130 serves or has served as the treasurer, deputy treasurer or chairman of
131 the candidate committee.

132 [(18)] (19) "Federal account" means a depository account that is
133 subject to the disclosure and contribution limits provided under the
134 Federal Election Campaign Act of 1971, as amended from time to time.

135 [(19)] (20) "Public funds" means funds belonging to, or under the
136 control of, the state or a political subdivision of the state.

137 Sec. 2. Subsection (b) of section 9-333b of the general statutes is
138 repealed and the following is substituted in lieu thereof (*Effective July*

139 1, 2004):

140 (b) As used in this chapter, "contribution" does not mean:

141 (1) A loan of money made in the ordinary course of business by a
142 national or state bank;

143 (2) Any communication made by a corporation, organization or
144 association to its members, owners, stockholders, executive or
145 administrative personnel, or their families;

146 (3) Nonpartisan voter registration and get-out-the-vote campaigns
147 by any corporation, organization or association aimed at its members,
148 owners, stockholders, executive or administrative personnel, or their
149 families;

150 (4) Uncompensated services provided by individuals volunteering
151 their time;

152 (5) The use of real or personal property, and the cost of invitations,
153 food or beverages, voluntarily provided by an individual to a
154 candidate or on behalf of a state central or town committee, in
155 rendering voluntary personal services for candidate or party-related
156 activities at the individual's residence, to the extent that the cumulative
157 value of the invitations, food or beverages provided by the individual
158 on behalf of any single candidate does not exceed two hundred dollars
159 with respect to any single election, and on behalf of all state central
160 and town committees does not exceed four hundred dollars in any
161 calendar year;

162 (6) The sale of food or beverage for use in a candidate's campaign or
163 for use by a state central or town committee at a discount, if the charge
164 is not less than the cost to the vendor, to the extent that the cumulative
165 value of the discount given to or on behalf of any single candidate does
166 not exceed two hundred dollars with respect to any single election,
167 and on behalf of all state central and town committees does not exceed
168 four hundred dollars in a calendar year;

169 (7) Any unreimbursed payment for travel expenses made by an
170 individual who on the individual's own behalf volunteers the
171 individual's personal services to any single candidate to the extent the
172 cumulative value does not exceed two hundred dollars with respect to
173 any single election, and on behalf of all state central or town
174 committees does not exceed four hundred dollars in a calendar year;

175 (8) The payment, by a party committee, political committee or an
176 individual, of the costs of preparation, display, mailing or other
177 distribution incurred by the committee or individual with respect to
178 any printed slate card, sample ballot or other printed list containing
179 the names of three or more candidates;

180 (9) The donation of any item of personal property by an individual
181 to a committee for a fund-raising affair, including a tag sale or auction,
182 or the purchase by an individual of any such item at such an affair, to
183 the extent that the cumulative value donated or purchased does not
184 exceed fifty dollars;

185 [(10) The purchase of advertising space which clearly identifies the
186 purchaser, in a program for a fund-raising affair, provided the
187 cumulative purchase of such space does not exceed two hundred fifty
188 dollars from any single candidate or the candidate's committee with
189 respect to any single election campaign or two hundred fifty dollars
190 from any single party committee or other political committee in any
191 calendar year if the purchaser is a business entity or fifty dollars for
192 purchases by any other person;]

193 [(11)] (10) The payment of money by a candidate to the candidate's
194 candidate committee;

195 [(12)] (11) The donation of goods or services by a business entity to a
196 committee for a fund-raising affair, including a tag sale or auction, to
197 the extent that the cumulative value donated does not exceed one
198 hundred dollars;

199 [(13)] (12) The advance of a security deposit by an individual to a

200 telephone company, as defined in section 16-1, as amended, for
201 telecommunications service for a committee, provided the security
202 deposit is refunded to the individual;

203 [(14)] (13) The provision of facilities, equipment, technical and
204 managerial support, and broadcast time by a community antenna
205 television company, as defined in section 16-1, as amended, for
206 community access programming pursuant to section 16-331a, unless
207 (A) the major purpose of providing such facilities, equipment, support
208 and time is to influence the nomination or election of a candidate, or
209 (B) such facilities, equipment, support and time are provided on behalf
210 of a political party; or

211 [(15)] (14) The sale of food or beverage by a town committee to an
212 individual at a town fair, county fair or similar mass gathering held
213 within the state, to the extent that the cumulative payment made by
214 any one individual for such items does not exceed fifty dollars.

215 Sec. 3. Subdivision (1) of subsection (g) of section 9-333i of the
216 general statutes, as amended by section 61 of public act 03-241, is
217 repealed and the following is substituted in lieu thereof (*Effective July*
218 *1, 2004*):

219 (g) (1) As used in this subsection, (A) "the lawful purposes of his
220 committee" means: (i) For a candidate committee or exploratory
221 committee, the promoting of the nomination or election of the
222 candidate who established the committee, except that after a political
223 party nominates candidates for election to the offices of Governor and
224 Lieutenant Governor, whose names shall be so placed on the ballot in
225 the election that an elector will cast a single vote for both candidates,
226 as prescribed in section 9-181, a candidate committee established by
227 either such candidate may also promote the election of the other such
228 candidate; (ii) for a political committee, the promoting of the success or
229 defeat of candidates for nomination and election to public office or
230 position subject to the requirements of this chapter, or the success or
231 defeat of referendum questions, provided a political committee formed
232 for a single referendum question shall not promote the success or

233 defeat of any candidate; [and provided further a political committee
234 designated by the majority of the members of a political party who are
235 also members of the state House of Representatives or the state Senate
236 may expend funds to defray costs of its members for conducting
237 legislative or constituency-related business which are not reimbursed
238 or paid by the state;] and (iii) for a party committee, the promoting of
239 the party, the candidates of the party and continuing operating costs of
240 the party, provided a legislative caucus committee may expend funds
241 to defray costs of its members for conducting legislative or
242 constituency-related business which are not reimbursed or paid by the
243 state, and (B) "immediate family" means a spouse or dependent child
244 of a candidate who resides in the candidate's household.

245 Sec. 4. Subsection (c) of section 9-333j of the general statutes, as
246 amended by section 4 of public act 03-223 and section 60 of public act
247 03-241, is repealed and the following is substituted in lieu thereof
248 (*Effective July 1, 2004*):

249 (c) (1) Each statement filed under subsection (a), (e) or (f) of this
250 section shall include, but not be limited to: (A) An itemized accounting
251 of each contribution, if any, including the full name and complete
252 address of each contributor and the amount of the contribution; (B) in
253 the case of anonymous contributions, the total amount received and
254 the denomination of the bills; (C) an itemized accounting of each
255 expenditure, if any, including the full name and complete address of
256 each payee, the amount and the purpose of the expenditure, the
257 candidate supported or opposed by the expenditure, whether the
258 expenditure is made independently of the candidate supported or is an
259 in-kind contribution to the candidate, and a statement of the balance
260 on hand or deficit, as the case may be; (D) an itemized accounting of
261 each expense incurred but not paid; (E) the name and address of any
262 person who is the guarantor of a loan to, or the cosigner of a note with,
263 the candidate on whose behalf the committee was formed, or the
264 campaign treasurer in the case of a party committee or a political
265 committee or who has advanced a security deposit to a telephone
266 company, as defined in section 16-1, as amended, for

267 telecommunications service for a committee; [(F) for each business
268 entity or person purchasing advertising space in a program for a fund-
269 raising affair, the name and address of the business entity or the name
270 and address of the person, and the amount and aggregate amounts of
271 such purchases; (G)] (F) for each individual who contributes in excess
272 of one hundred dollars but not more than one thousand dollars, in the
273 aggregate, to the extent known, the principal occupation of such
274 individual and the name of the individual's employer, if any; [(H)] (G)
275 for each individual who contributes in excess of one thousand dollars
276 in the aggregate, the principal occupation of such individual, the name
277 of the individual's employer, if any, and a statement indicating
278 whether the individual or a business with which he is associated has a
279 contract with the state which is valued at more than five thousand
280 dollars; [(I)] (H) for each itemized contribution made by a lobbyist, the
281 spouse of a lobbyist or any dependent child of a lobbyist who resides
282 in the lobbyist's household, a statement to that effect; and [(J)] (I) for
283 each individual who contributes in excess of four hundred dollars in
284 the aggregate to or for the benefit of any candidate's campaign for
285 nomination at a primary or election to the office of chief executive
286 officer of a town, city or borough, a statement indicating whether the
287 individual or a business with which he is associated has a contract
288 with said municipality that is valued at more than five thousand
289 dollars. Each campaign treasurer shall include in such statement (i) an
290 itemized accounting of the receipts and expenditures relative to any
291 testimonial affair held under the provisions of section 9-333k, as
292 amended by this act, or any other fund-raising affair, which is referred
293 to in subsection (b) of section 9-333b, as amended by this act, and (ii)
294 the date, location and a description of the affair.

295 (2) Each contributor described in subparagraph [(G), (H), (I) or (J)]
296 (F), (G), (H) or (I) of subdivision (1) of this subsection shall, at the time
297 the contributor makes such a contribution, provide the information
298 which the campaign treasurer is required to include under said
299 subparagraph in the statement filed under subsection (a), (e) or (f) of
300 this section. Notwithstanding any provision of subdivision (2) of
301 section 9-7b, as amended, any contributor described in subparagraph

302 [(G)] (F) of subdivision (1) of this subsection who does not provide
303 such information at the time the contributor makes such a contribution
304 and any treasurer shall not be subject to the provisions of subdivision
305 (2) of section 9-7b, as amended. If a campaign treasurer receives a
306 contribution from an individual which separately, or in the aggregate,
307 is in excess of one thousand dollars and the contributor has not
308 provided the information required by [said] subparagraph [(H)] (G) of
309 subdivision (1) of this subsection or if a campaign treasurer receives a
310 contribution from an individual to or for the benefit of any candidate's
311 campaign for nomination at a primary or election to the office of chief
312 executive officer of a town, city or borough, which separately, or in the
313 aggregate, is in excess of four hundred dollars and the contributor has
314 not provided the information required by [said] subparagraph [(J)] (I)
315 of subdivision (1) of this subsection, the campaign treasurer: (i) Within
316 three business days after receiving the contribution, shall send a
317 request for such information to the contributor by certified mail, return
318 receipt requested; (ii) shall not deposit the contribution until the
319 campaign treasurer obtains such information from the contributor,
320 notwithstanding the provisions of section 9-333h, as amended; and (iii)
321 shall return the contribution to the contributor if the contributor does
322 not provide the required information within fourteen days after the
323 treasurer's written request or the end of the reporting period in which
324 the contribution was received, whichever is later. Any failure of a
325 contributor to provide the information which the campaign treasurer is
326 required to include under [said] subparagraph [(G) or (I)] (F) or (H) of
327 subdivision (1) of this subsection, which results in noncompliance by
328 the campaign treasurer with the provisions of [said] subparagraph [(G)
329 or (I)] (F) or (H) of subdivision (1) of this subsection, shall be a
330 complete defense to any action against the campaign treasurer for
331 failure to disclose such information.

332 (3) Contributions from a single individual to a campaign treasurer
333 in the aggregate totaling thirty dollars or less need not be individually
334 identified in the statement, but a sum representing the total amount of
335 all such contributions made by all such individuals during the period
336 to be covered by such statement shall be a separate entry, identified

337 only by the words "total contributions from small contributors".

338 (4) Statements filed in accordance with this section shall remain
339 public records of the state for five years from the date such statements
340 are filed.

341 Sec. 5. Subsection (a) of section 9-333k of the general statutes is
342 repealed and the following is substituted in lieu thereof (*Effective July*
343 *1, 2004*):

344 (a) The chairman of each party committee shall designate a
345 campaign treasurer and may designate a deputy campaign treasurer,
346 or in the case of a state central committee, not more than two deputy
347 campaign treasurers. The campaign treasurer and any deputy
348 campaign treasurers so designated shall sign a statement accepting the
349 designation, which shall be filed with the proper authority with the
350 statement of designation required under subdivision (1) of subsection
351 (a) of section 9-333d. No state central committee or town committee
352 shall establish a committee other than a single party committee for
353 purposes of this chapter. The members of the same political party in a
354 house of the General Assembly may establish only one legislative
355 caucus committee. A party committee or a political committee
356 organized for ongoing political activities shall form no other political
357 committees, except that two or more such committees may join to form
358 a political committee for the purpose of a single fund-raising event.

359 Sec. 6. Subsection (g) of section 9-333l of the general statutes is
360 repealed and the following is substituted in lieu thereof (*Effective July*
361 *1, 2004*):

362 (g) As used in this subsection, "immediate family" means any
363 spouse or dependent child who resides in a lobbyist's household. Each
364 lobbyist who is an individual and, in conjunction with members of his
365 immediate family, makes contributions to or purchases from
366 committees exceeding one thousand dollars in the aggregate during
367 the twelve-month period beginning July 1, 1993, or July first in any
368 year thereafter, shall file a statement, sworn under penalty of false

369 statement, with the Secretary of the State in accordance with the
370 provisions of section 9-333e, as amended, on the second Thursday in
371 July following the end of such twelve-month period. The statement
372 shall include: (1) The name of each committee to which the lobbyist or
373 a member of his immediate family has made a contribution and the
374 amount and date of each such contribution; and (2) the name of each
375 committee from which the lobbyist or member of his immediate family
376 has purchased any item of property [or advertising space in a
377 program] in connection with a fund-raising event which is not
378 considered a contribution under subsection (b) of section 9-333b, as
379 amended by this act, and the amount, date and description of each
380 such purchase. Each lobbyist who is an individual and who, in
381 conjunction with members of his immediate family, does not make
382 contributions to or purchases from committees exceeding one
383 thousand dollars in the aggregate during any such twelve-month
384 period shall file a statement, sworn under penalty of false statement,
385 with the Secretary of the State in accordance with the provisions of
386 section 9-333e, as amended, on the second Thursday in July, so
387 indicating.

388 Sec. 7. Section 9-333n of the general statutes, as amended by section
389 14 of public act 03-241, is repealed and the following is substituted in
390 lieu thereof (*Effective July 1, 2004*):

391 (a) No individual shall make a contribution or contributions in any
392 one calendar year in excess of five thousand dollars to the state central
393 committee of any party, or for the benefit of such committee pursuant
394 to its authorization or request; or one thousand dollars to a town
395 committee of any political party, or for the benefit of such committee
396 pursuant to its authorization or request; or two thousand dollars to a
397 legislative caucus committee, or for the benefit of such committee
398 pursuant to its authorization or request; or one thousand dollars to a
399 political committee other than (1) a political committee formed solely
400 to aid or promote the success or defeat of a referendum question, (2) an
401 exploratory committee, (3) a political committee established by an
402 organization, or for the benefit of such committee pursuant to its

403 authorization or request, or (4) a political committee formed by a slate
404 of candidates in a primary for the office of justice of the peace of the
405 same town.

406 (b) No individual shall make a contribution to a political committee
407 established by an organization which receives its funds from the
408 organization's treasury. With respect to a political committee
409 established by an organization which has complied with the provisions
410 of subsection (b) or (c) of section 9-333p, and has elected to receive
411 contributions, no individual other than a member of the organization
412 may make contributions to the committee, in which case the individual
413 may contribute not more than five hundred dollars in any one calendar
414 year to such committee or for the benefit of such committee pursuant
415 to its authorization or request.

416 (c) In no event may any individual make contributions to a
417 candidate committee and a political committee formed solely to
418 support one candidate other than an exploratory committee or for the
419 benefit of a candidate committee and a political committee formed
420 solely to support one candidate pursuant to the authorization or
421 request of any such committee, in an amount which in the aggregate is
422 in excess of the maximum amount which may be contributed to the
423 candidate.

424 (d) Any individual may make unlimited contributions or
425 expenditures to aid or promote the success or defeat of any
426 referendum question, provided any individual who makes an
427 expenditure or expenditures in excess of one thousand dollars to
428 promote the success or defeat of any referendum question shall file
429 statements according to the same schedule and in the same manner as
430 is required of a campaign treasurer of a political committee under
431 section 9-333j, as amended by this act.

432 (e) Any individual acting alone may, independent of any candidate,
433 agent of the candidate, or committee, make unlimited expenditures to
434 promote the success or defeat of any candidate's campaign for election,
435 or nomination at a primary, to any office or position, provided any

436 individual who makes an independent expenditure or expenditures in
437 excess of one thousand dollars to promote the success or defeat of any
438 candidate's campaign for election, or nomination at a primary, to any
439 such office or position shall file statements according to the same
440 schedule and in the same manner as is required of a campaign
441 treasurer of a candidate committee under section 9-333j, as amended
442 by this act.

443 (f) (1) As used in this subsection and subsection (f) of section 9-333j,
444 as amended by this act, (A) "investment services" means investment
445 legal services, investment banking services, investment advisory
446 services, underwriting services, financial advisory services or
447 brokerage firm services, and (B) "principal of an investment services
448 firm" means (i) an individual who is a director of or has an ownership
449 interest in an investment services firm to which the State Treasurer
450 pays compensation, expenses or fees or issues a contract, except for an
451 individual who owns less than five per cent of the shares of an
452 investment services firm which is a publicly traded corporation, (ii) an
453 individual who is employed by such an investment services firm as
454 president, treasurer, or executive or senior vice president, (iii) an
455 employee of such an investment services firm who has managerial or
456 discretionary responsibilities with respect to any investment services
457 provided to the State Treasurer, (iv) the spouse or a dependent child of
458 an individual described in this subparagraph, or (v) a political
459 committee established by or on behalf of an individual described in
460 this subparagraph.

461 (2) No principal of an investment services firm shall make a
462 contribution to, or solicit contributions on behalf of, an exploratory
463 committee or candidate committee established by a candidate for
464 nomination or election to the office of State Treasurer during the term
465 of office of the State Treasurer who pays compensation, expenses or
466 fees or issues a contract to such firm.

467 (3) Neither the State Treasurer, the Deputy State Treasurer, any
468 unclassified employee of the office of the State Treasurer acting on

469 behalf of the State Treasurer or Deputy State Treasurer, any candidate
470 for the office of State Treasurer, any member of the Investment
471 Advisory Council established under section 3-13b nor any agent of any
472 such candidate may solicit contributions on behalf of an exploratory
473 committee or candidate committee established by a candidate for
474 nomination or election to any public office, a political committee or a
475 party committee, from a principal of an investment services firm,
476 except that the prohibition in this subsection shall not apply to an
477 incumbent State Treasurer who establishes an exploratory committee
478 or candidate committee for any public office other than State
479 Treasurer.

480 (4) No member of the Investment Advisory Council appointed
481 under section 3-13b shall make a contribution to, or solicit
482 contributions on behalf of, an exploratory committee or candidate
483 committee established by a candidate for nomination or election to the
484 office of State Treasurer.

485 (5) The provisions of this subsection shall not restrict an individual
486 from establishing an exploratory or candidate committee for the
487 individual's own campaign or from soliciting contributions for such
488 committees from persons not prohibited from making contributions
489 under this subsection.

490 (6) The State Treasurer shall keep a list of investment services firms
491 described in this subsection. Said list shall be subject to disclosure
492 under the Freedom of Information Act and shall be available to the
493 State Elections Enforcement Commission. Each investment services
494 contract issued by the State Treasurer shall include the provisions of
495 subdivisions (2) to (5), inclusive, of this subsection as conditions of the
496 contract. Each such investment services firm shall maintain a list of the
497 principals of the investment services firm and shall provide such list to
498 the State Elections Enforcement Commission, upon request of the
499 commission.

500 (g) (1) As used in this subsection, "state officer" means the Governor,
501 Lieutenant Governor, Secretary of the State, Comptroller or Attorney

502 General.

503 (2) If a state officer awards a contract or contracts which, separately
504 or in the aggregate, have a value of fifty thousand dollars or more to a
505 business, (A) no individual who is an owner, partner, director or
506 officer of said business, or a manager of said business who has
507 substantial policy or decision-making authority concerning the
508 administration of the contract shall make a contribution to, or for the
509 benefit of, said state officer's campaign for nomination at a primary or
510 re-election to the same office or election to any other public office or to
511 an exploratory committee formed by said state officer, and (B) said
512 state officer and the officer's committee or agent shall not solicit
513 contributions, on behalf of the candidate or exploratory committee
514 established by said state officer or the candidate or exploratory
515 committee established by any other candidate for nomination or
516 election to any other public office or on behalf of any political
517 committee or party committee, from (i) any individual who is an
518 owner, officer, director, partner or such a manager of said business, (ii)
519 the spouse of any such individual or a dependent child of any such
520 individual who resides in the individual's household, (iii) a political
521 committee established by said business, or (iv) any individual who is
522 an owner, officer, director or partner of a subcontractor of said
523 business or a manager of said subcontractor who has substantial policy
524 or decision-making authority concerning the administration of the
525 subcontract.

526 (3) Each state officer shall keep a list of (A) businesses to which the
527 state officer has awarded a contract or contracts of fifty thousand
528 dollars or more, and (B) all subcontractors under said contracts. Said
529 list shall be subject to disclosure under the Freedom of Information Act
530 and shall be available to the State Elections Enforcement Commission.
531 Each contract issued by a state officer shall include the provisions of
532 subparagraph (A) of subdivision (2) of this subsection as a condition of
533 the contract. Each business to which a state officer has awarded a
534 contract or contracts of fifty thousand dollars or more and each
535 subcontractor under said contract shall maintain a list of such business'

536 or subcontractor's owners, partners, directors, officers and managers
537 with substantial policy or decision-making authority related to the
538 administration of such contracts and shall provide upon request, such
539 list to the State Elections Enforcement Commission, upon request of
540 the commission.

541 (4) For purposes of this subsection, (A) a contract awarded by a
542 department head in the executive branch of state government who is
543 appointed by the Governor shall be deemed to have been awarded by
544 the Governor, and (B) a contract awarded by a board, commission,
545 council or other multi-member authority, for which a majority of the
546 members are appointed by a single state officer, shall be deemed to
547 have been awarded by said state officer.

548 (h) No lobbyist shall make a contribution or contributions to, or for
549 the benefit of, any candidate's campaign for nomination at a primary
550 or election in excess of one hundred dollars. No lobbyist shall make a
551 contribution or contributions in any one calendar year in excess of five
552 hundred dollars to a state central committee, in excess of two hundred
553 fifty dollars to a town committee and in excess of two hundred fifty
554 dollars to a legislative caucus committee.

555 Sec. 8. Section 9-333o of the general statutes is repealed and the
556 following is substituted in lieu thereof (*Effective July 1, 2004*):

557 (a) No business entity shall make any contributions or expenditures
558 to, or for the benefit of, any candidate's campaign for election to any
559 public office or position subject to this chapter or for nomination at a
560 primary for any such office or position, or to promote the defeat of any
561 candidate for any such office or position, or to promote the success or
562 defeat of any political party, except as provided in subsection (b) of
563 this section.

564 (b) A business entity may make reasonable and necessary transfers
565 or disbursements to or for the benefit of a political committee
566 established by such business entity, for the administration of, or
567 solicitation of contributions to, such political committee. Nonmonetary

568 contributions by a business entity which are incidental in nature and
569 are directly attributable to the administration of such political
570 committee shall be exempt from the reporting requirements of this
571 chapter.

572 (c) The provisions of this section shall not preclude a business entity
573 from making contributions or expenditures to promote the success or
574 defeat of a referendum question.

575 (d) A political committee organized by a business entity shall not
576 make a contribution or contributions to or for the benefit of any
577 candidate's campaign for nomination at a primary or any candidate's
578 campaign for election. [to the office of: (1) Governor, in excess of five
579 thousand dollars; (2) Lieutenant Governor, Secretary of the State,
580 Treasurer, Comptroller or Attorney General, in excess of three
581 thousand dollars; (3) state senator, probate judge or chief executive
582 officer of a town, city or borough, in excess of one thousand dollars; (4)
583 state representative, in excess of five hundred dollars; or (5) any other
584 office of a municipality not included in subdivision (3) of this
585 subsection, in excess of two hundred fifty dollars; or an exploratory
586 committee, in excess of two hundred fifty dollars. The limits imposed
587 by this subsection shall apply separately to primaries and elections and
588 contributions by any such committee to candidates designated in this
589 subsection shall not exceed one hundred thousand dollars in the
590 aggregate for any single election and primary preliminary thereto.
591 Contributions to such committees shall also be subject to the
592 provisions of section 9-333t in the case of committees formed for
593 ongoing political activity or section 9-333u in the case of committees
594 formed for a single election or primary.]

595 (e) A political committee organized by a business entity may make
596 unlimited contributions to, or for the benefit of, another political
597 committee organized by a business entity or to a party committee. No
598 political committee organized by a business entity shall make a
599 contribution to an exploratory committee. [in excess of two hundred
600 fifty dollars.] No such political committee shall make a contribution or

601 contributions in excess of two thousand dollars to any other kind of
602 political committee, in any one calendar year if organized for ongoing
603 political activities, or if formed for a single primary, election or
604 referendum, with respect to such primary, election or referendum.

605 (f) As used in this subsection, "investment services" means
606 investment legal services, investment banking services, investment
607 advisory services, underwriting services, financial advisory services or
608 brokerage firm services. No political committee established by a firm
609 which provides investment services and to which the State Treasurer
610 pays compensation, expenses or fees or issues a contract shall make a
611 contribution to, or solicit contributions on behalf of, an exploratory
612 committee or candidate committee established by a candidate for
613 nomination or election to the office of State Treasurer during the term
614 of office of the State Treasurer who does business with such firm.

615 (g) During the thirty days before an election, no political committee
616 organized by a business entity shall make any expenditure for a
617 communication that refers to a clearly identified candidate or supports
618 or opposes a candidate's campaign for election.

619 Sec. 9. Section 9-333q of the general statutes is repealed and the
620 following is substituted in lieu thereof (*Effective July 1, 2004*):

621 (a) No political committee established by an organization shall
622 make a contribution or contributions to, or for the benefit of, any
623 candidate's campaign for nomination at a primary or for election. [to
624 the office of: (1) Governor, in excess of two thousand five hundred
625 dollars; (2) Lieutenant Governor, Secretary of the State, Treasurer,
626 Comptroller or Attorney General, in excess of one thousand five
627 hundred dollars; (3) chief executive officer of a town, city or borough,
628 in excess of one thousand dollars; (4) state senator or probate judge, in
629 excess of five hundred dollars; or (5) state representative or any other
630 office of a municipality not previously included in this subsection, in
631 excess of two hundred fifty dollars.]

632 (b) No such committee shall make a contribution or contributions to,

633 or for the benefit of, an exploratory committee. [, in excess of two
634 hundred fifty dollars.] Any such committee may make unlimited
635 contributions to a political committee formed solely to aid or promote
636 the success or defeat of a referendum question.

637 [(c) The limits imposed by subsection (a) of this section shall apply
638 separately to primaries and elections and no such committee shall
639 make contributions to the candidates designated in this section which
640 in the aggregate exceed fifty thousand dollars for any single election
641 and primary preliminary thereto.]

642 [(d)] (c) No political committee established by an organization shall
643 make contributions in any one calendar year to, or for the benefit of, (1)
644 the state central committee of a political party, in excess of five
645 thousand dollars; (2) a town committee, in excess of one thousand
646 dollars; or (3) any political committee, other than an exploratory
647 committee or a committee formed solely to aid or promote the success
648 or defeat of a referendum question, in excess of two thousand dollars.

649 [(e)] (d) No political committee established by an organization shall
650 make contributions to the committees designated in subsection [(d)] (c)
651 of this section, which in the aggregate exceed fifteen thousand dollars
652 in any one calendar year. Contributions to a political committee
653 established by an organization shall also be subject to the provisions of
654 section 9-333t, as amended by this act, in the case of a committee
655 formed for ongoing political activity or section 9-333u, as amended by
656 this act, in the case of a committee formed for a single election or
657 primary.

658 (e) During the thirty days before an election, no political committee
659 organized by an organization shall make any expenditure for a
660 communication that refers to a clearly identified candidate or supports
661 or opposes a candidate's campaign for election.

662 Sec. 10. Section 9-333t of the general statutes is repealed and the
663 following is substituted in lieu thereof (Effective July 1, 2004):

664 (a) A political committee organized for ongoing political activities
665 may make unlimited contributions to, or for the benefit of, a party
666 committee; any national committee of a political party; [a candidate
667 committee;] or a committee of a candidate for federal or out-of-state
668 office. No such political committee shall make a contribution or
669 contributions to a candidate committee. No such political committee
670 shall make a contribution or contributions in excess of two thousand
671 dollars to another political committee in any calendar year except that
672 a political committee organized by a business entity may make
673 unlimited contributions to, or for the benefit of, another political
674 committee organized by a business entity. No political committee
675 organized for ongoing political activities shall make a contribution [in
676 excess of two hundred fifty dollars] to an exploratory committee. If
677 such an ongoing committee is established by an organization or a
678 business entity, its contributions shall be subject to the limits imposed
679 by sections 9-333o to 9-333q, inclusive, as amended by this act. A
680 political committee organized for ongoing political activities may
681 make contributions to a charitable organization which is a tax-exempt
682 organization under Section 501(c)(3) of the Internal Revenue Code, as
683 from time to time amended, or make memorial contributions.

684 (b) A political committee organized for ongoing political activities
685 may receive contributions from the federal account of a national
686 committee of a political party, but may not receive contributions from
687 any other account of a national committee of a political party or from a
688 committee of a candidate for federal or out-of-state office.

689 (c) During the thirty days before an election, no political committee
690 organized for ongoing political activities shall make any expenditure
691 for a communication that refers to a clearly identified candidate or
692 supports or opposes a candidate's campaign for election.

693 Sec. 11. Section 9-333u of the general statutes is repealed and the
694 following is substituted in lieu thereof (*Effective July 1, 2004*):

695 (a) A political committee established for a single primary or election
696 may make unlimited contributions to, or for the benefit of, a party

697 committee, [or a candidate committee,] but no such political committee
698 shall make contributions to a national committee, or a committee of a
699 candidate for federal or out-of-state office. No such political committee
700 shall make a contribution or contributions to a candidate committee. If
701 such a political committee is established by an organization or a
702 business entity, its contributions shall also be subject to the limitations
703 imposed by sections 9-333o to 9-333q, inclusive, as amended by this
704 act. No political committee formed for a single election or primary
705 shall, with respect to such election or primary make a contribution or
706 contributions in excess of two thousand dollars to another political
707 committee, provided no such political committee shall make a
708 contribution [in excess of two hundred fifty dollars] to an exploratory
709 committee.

710 (b) A political committee established for a single primary or election
711 shall not receive contributions from a committee of a candidate for
712 federal or out-of-state office or from a national committee.

713 (c) During the thirty days before an election, no political committee
714 established for a single primary or election shall make any expenditure
715 for a communication that refers to a clearly identified candidate or
716 supports or opposes a candidate's campaign for election.

717 Sec. 12. Subdivision (1) of subsection (e) of section 1-79 of the
718 general statutes is repealed and the following is substituted in lieu
719 thereof (*Effective July 1, 2004*):

720 (1) A political contribution otherwise reported as required by law or
721 a donation or payment as described in subdivision (9) [or (10)] of
722 subsection (b) of section 9-333b, as amended by this act.

723 Sec. 13. Subdivision (1) of subsection (g) of section 1-91 of the
724 general statutes is repealed and the following is substituted in lieu
725 thereof (*Effective July 1, 2004*):

726 (1) A political contribution otherwise reported as required by law or
727 a donation or payment described in subdivision (9) [or (10)] of

728 subsection (b) of section 9-333b, as amended by this act.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>July 1, 2004</i>
Sec. 5	<i>July 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>
Sec. 7	<i>July 1, 2004</i>
Sec. 8	<i>July 1, 2004</i>
Sec. 9	<i>July 1, 2004</i>
Sec. 10	<i>July 1, 2004</i>
Sec. 11	<i>July 1, 2004</i>
Sec. 12	<i>July 1, 2004</i>
Sec. 13	<i>July 1, 2004</i>

Statement of Legislative Commissioners:

Sections 12 and 13 were added for statutory consistency.

GAE *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Elect. Enforcement Com.	GF - Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill prohibits campaign contributions from political committees, allows each caucus in the General Assembly to establish a single legislative caucus committee which shall be regulated as a party committee, requires advertising purchases in ad books to be treated as contributions, prohibits contributions by officials and family members of large state contractors to candidates for state office, limits contributions by lobbyists, and prohibits political committees from making expenditures for communications identifying or advocating for or against candidates in the last thirty days of campaigns.

The bill, which imposes additional restrictions in the campaign finance laws, will result in a workload increase to the State Elections Enforcement Commission (SEEC) to both educate campaigns of the new restrictions and enforce the law. There is also a potential increase in revenue from civil penalties that the SEEC could impose for the new violations. The extent of the increase in both workload and revenue is indeterminate at this time.

OLR Bill Analysis

sHB 5431

AN ACT REFORMING CAMPAIGN FINANCE LAWS CONCERNING CONTRIBUTIONS FROM POLITICAL COMMITTEES, LOBBYISTS AND LARGE STATE CONTRACTORS AND THE REPORTING AND LIMITATION ON PURCHASES OF ADVERTISING SPACE IN AD BOOKS**SUMMARY:**

This bill prohibits business and labor political committees (PACs) from contributing to candidates' campaign committees. It prohibits ongoing and single primary or election PACs from contributing to candidate committees. The bill also bars any of these PACs from making an expenditure within 30 days before an election for a communication (1) referring to a clearly identified candidate or (2) supporting or opposing a candidate's election campaign.

The bill defines a "legislative caucus committee" and makes it a party committee rather than a PAC established by two or more individuals. By doing so, it changes some of the caucus committees' contribution limits. It eliminates a provision exempting purchases of advertising space in advertising books from restrictions on contributions.

The bill prohibits any lobbyist from contributing more than \$100 to, or for the benefit of, a candidate's campaign for nomination or election. It also limits a lobbyist's contribution, in one calendar year, to (1) \$500 to a state central committee, (2) \$250 to a town committee, and (3) \$250 to a legislative caucus committee.

It requires the state treasurer to keep a list of investment services firms, which may only make certain political contributions, and requires her to include as contract conditions the restrictions on campaign contributions and solicitations with respect to these firms.

The bill prohibits businesses with state contracts worth at least \$50,000 awarded by a covered state officer from contributing to the awarding officer's campaign or exploratory committee, and bars the officer from soliciting contributions from them.

EFFECTIVE DATE: July 1, 2004

BUSINESS AND LABOR PACS

Current law allows business and labor PACs to contribute to candidates' campaigns within certain limits. The bill instead prohibits business and labor PACs from making any contributions to political campaigns. Table 1 shows the current limits on contributions that are banned under the bill.

Table 1: Limits on Contributions from Business and Labor PACs

<i>Candidates for:</i>	<i>Current Limit for Business PAC</i>	<i>Current Limit for Labor PAC</i>
Governor	\$5,000	\$2,500
Other constitutional offices	3,000	1,500
Municipal chief executive officer	1,000	1,000
State senator and probate judge	1,000	500
State representative	500	250
Other municipal offices	250	250
All exploratory committees	250	250

The bill also prohibits business and labor PACs from making any expenditure within 30 days before an election for a communication referring to a clearly identified candidate or supporting or opposing a candidate's election campaign.

ONGOING AND SINGLE PRIMARY OR ELECTION PACS

The bill prohibits ongoing and single primary or election PACs from contributing to an exploratory or candidate committee. Under current law, these PACs can contribute unlimited amounts to a candidate committee and up to \$250 to an exploratory committee. The bill also prohibits these PACs from making any expenditure within 30 days

before an election for a communication referring to a clearly identified candidate or supporting or opposing a candidate's election campaign.

LEGISLATIVE CAUCUS COMMITTEES

Caucus Committees Defined

The bill expands the definition of a "party committee" for campaign finance purposes to include legislative caucus committees, in addition to the state central and town committees included under current law. It defines a "legislative caucus committee" as a single committee designated by the majority of legislators in a political party, as the committee's chairperson certifies the designation on the registration filed with the secretary of the state. It requires the committee to be identified by the chamber in which the legislators serve and the political party to which they belong. It prohibits members of the same political party in a chamber from establishing more than one legislative caucus committee.

Contributions From a Caucus Committee

By making a legislative caucus committee a party committee, the bill generally increases the limits on contributions it can make to other committees. It can already make unlimited contributions to candidate committees. The bill removes the \$2,000 limit on a caucus committee's contributions to other committees. Table 2 shows limits on contributions it can make under current law and the bill.

Table 2: Limits on Contributions From a Caucus PAC

<i>Recipient Committee</i>	<i>Current Law</i>	<i>The Bill</i>
Candidate committee	Unlimited	No change
Party committee	Unlimited	No change
Labor PAC	\$2,000	Unlimited
Business PAC	2,000	Unlimited
Ongoing PAC	2,000	Unlimited
Committee formed for a referendum question	2,000	Unlimited
PAC formed for a single primary or election	2,000	Unlimited
Exploratory committee	250	Unlimited
Candidate committee for	Unlimited	No change

out-of-state or federal office		
National party committee	Unlimited	No change

Contributions To a Caucus Committee

By changing a caucus PAC from an ongoing to a party committee, the bill generally removes limits on what a caucus PAC can receive from other contributors. In the case of a business, labor, or ongoing PAC or a committee formed for a single primary or election, the bill removes the current \$2,000 limit. It increases limits on individual contributions to a legislative caucus PAC from \$1,000 to \$2,000. Table 3 shows the bill's changes in the limits on contributions a legislative caucus committee can receive from the donors specified.

Table 3: Limits on Contributions to a Caucus PAC

<i>From:</i>	<i>Current law</i>	<i>The bill</i>
Individual	\$1,000	\$2,000
Candidate committee	Surplus only	No change
Party committee	Unlimited	No change
Labor PAC	\$2,000	*
Business PAC	2,000	Unlimited
Ongoing PAC	2,000	Unlimited
Committee formed for a referendum question	Surplus only	No change
PAC formed for a single primary or election	2,000	Unlimited
Exploratory committee	Prorated surplus distribution only	No change
Candidate committee for out-of-state or federal office	Prohibited	No change
National party committee	Unlimited	No change

*The bill does not address the contribution limit, if any, for a labor PAC's contribution to a legislative caucus PAC.

ADVERTISING BOOKS

The bill makes the purchase of space in advertising books a campaign contribution, subject to limits and reporting requirements. It

eliminates the provision allowing a purchaser to buy advertising space that clearly identifies him, in a program for a fund-raising affair, if the total purchase of advertising space does not exceed (1) \$250 from any single candidate or his committee with respect to a single election campaign, (2) \$250 from any single party committee or other political committee in one calendar year if the purchaser is a business entity, or (3) \$50 for purchases by anyone else. The bill deletes additional provisions related to reporting purchases of advertising space in the statements campaign treasurers and lobbyists must file.

LOBBYISTS' CONTRIBUTIONS

The bill reduces the limits on a lobbyist's contributions as shown in Table 4.

Table 4: Limits on Lobbyists' Contributions

Recipient	Current Law	The Bill
Candidate committee for governor	\$2,500	\$100
Candidate committee for other statewide officers	1,500	100
Candidate committee for chief elected officer of a municipality	1,000	100
Candidate committee for state senator, probate judge	500	100
Candidate committee for state representative, other municipal candidates	250	100
State central committee	5,000	500
Town committee	1,000	250
Legislative caucus PAC	1,000	250

INVESTMENT SERVICES FIRMS

The bill requires the state treasurer to keep a list of investment services firms, which the law prohibits from contributing to certain campaigns. The bill makes the list subject to disclosure under the Freedom of Information Act (FOIA) and available to the State Elections Enforcement Commission (SEEC). It directs the treasurer to include the contribution and solicitation provisions applicable to investment services firms as conditions of each investment contract she issues. It requires each firm to keep a list of its principals and provide it to

SEEC, upon request.

STATE CONTRACTORS

Contributions

The bill prohibits large contractors from contributing to, or for the benefit of, an incumbent elected state officer's (other than the treasurer, who is subject to separate limitations under existing law) campaign for public office or to his exploratory committee. It applies the prohibition to any individual who is an owner, partner, director, officer, or specified manager with a contract or contracts worth more than \$50,000 that the officer awarded. It includes the managers who have had substantial or decision-making authority concerning the state contract's administration. Current limits on an individual's contributions are \$2,500 for gubernatorial candidates, \$1,500 for candidates for other state offices, and \$250 to an exploratory committee.

Solicitations

Under the bill, the governor, lieutenant governor, secretary of the state, comptroller, and attorney general (and their committees and agents) are banned from soliciting a campaign contribution from a large contractor or the owner, officer, director, partner, or manager of any subcontractor of such a contractor. The official is also barred from soliciting contributions from such contractors' spouse and dependent children living in the household, and from their business PACs.

The contribution solicitation restriction applies to (1) an official's own candidate or exploratory committee for nomination and re-election or election to another office, (2) the candidate or exploratory committee of another candidate for any other office, or (3) any PAC or party committee.

Required Records

The bill requires each covered official to keep a list of businesses to which he has awarded one or more contracts of at least \$50,000 and all associated subcontractors. The list is subject to FOIA disclosure and must be available to SEEC. Each contract the officer issues must include a provision detailing the business's contribution prohibitions listed above. The bill requires each business to which a state officer

awarded one or more contracts of \$50,000 or more and each associated contractor to keep a list of the business's or subcontractor's owners, partners, directors, officer, and managers with substantial policy or decision-making authority as to contract administration and provide the lists to SEEC upon request.

With respect to the governor, the bill's contribution and solicitation ban applies to anyone with a contract with an executive branch department whose head the governor appoints. For any board, commission, council, or other multimember authority, it applies to the officer who appointed a majority of the members.

BACKGROUND

Related Bill

SB 434, which the Government Administration and Elections Committee reported favorably on March 15, reduces the limits on campaign contributions to statewide officials from people associated with large state contractors. It also bars these contractors from soliciting contributions on these candidates' behalf and bans the state officers from soliciting contributions for themselves or anyone else from these contractors. It requires state officers to keep lists of large contractors and the contractors and subcontractors to keep a list of their owners, directors, and other management. Finally, the bill requires the contribution restrictions to be included as a condition in contracts the state officers award and as a notice in candidates' campaign contribution solicitations.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Report

Yea 9 Nay 8

Sec. 1-84. (Formerly Sec. 1-66). Prohibited activities. (a) No public official or state employee shall, while serving as such, have any financial interest in, or engage in, any business, employment, transaction or professional activity, which is in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed in the laws of this state, as defined in section 1-85.

(b) No public official or state employee shall accept other employment which will either impair his independence of judgment as to his official duties or employment or require him, or induce him, to disclose confidential information acquired by him in the course of and by reason of his official duties.

(c) No public official or state employee shall wilfully and knowingly disclose, for financial gain, to any other person, confidential information acquired by him in the course of and by reason of his official duties or employment and no public official or state employee shall use his public office or position or any confidential information received through his holding such public office or position to obtain financial gain for himself, his spouse, child, child's spouse, parent, brother or sister or a business with which he is associated.

(d) No public official or state employee or employee of such public official or state employee shall agree to accept, or be a member or employee of a partnership, association, professional corporation or sole proprietorship which partnership, association, professional corporation or sole proprietorship agrees to accept any employment, fee or other thing of value, or portion thereof, for appearing, agreeing to appear, or taking any other action on behalf of another person before the Department of Banking, the Claims Commissioner, the Office of Health Care Access, the Insurance Department, the office within the Department of Consumer Protection that carries out the duties and responsibilities of sections 30-2 to 30-68m, inclusive, the Department of Motor Vehicles, the State Insurance and Risk Management Board, the Department of Environmental Protection, the Department of Public Utility Control, the Connecticut Siting Council, the Division of Special Revenue within the Department of Revenue Services, the Gaming Policy Board within the Department of Revenue Services or the Connecticut Real Estate Commission; provided this shall not prohibit any such person from making inquiry for information on behalf of another before any of said commissions or commissioners if no fee or reward is given or promised in consequence thereof. For the purpose of this subsection, partnerships, associations, professional corporations or sole proprietorships refer only to such partnerships, associations, professional corporations or sole proprietorships which have been formed to carry on the business or profession directly relating to the employment, appearing, agreeing to appear or taking of action provided for in this subsection. Nothing in this subsection shall prohibit any employment, appearing, agreeing to appear or taking action before any municipal board, commission or council. Nothing in this subsection shall be construed as applying (1) to the actions of any teaching or research professional employee of a public institution of higher education if such actions are not in violation of any other provision of this chapter, (2) to the actions of any other professional employee of a public institution of higher education if such actions are not compensated and are not in violation of any other provision of this chapter, (3) to any member of a board or commission who receives no compensation other than per diem payments or reimbursement for actual or necessary expenses, or both, incurred in the performance of the member's duties or (4) to any member or director of a quasi-public agency. Notwithstanding the provisions of this subsection to the contrary, a legislator,

an officer of the General Assembly or part-time legislative employee may be or become a member or employee of a firm, partnership, association or professional corporation which represents clients for compensation before agencies listed in this subsection, provided the legislator, officer of the General Assembly or part-time legislative employee shall take no part in any matter involving the agency listed in this subsection and shall not receive compensation from any such matter. Receipt of a previously established salary, not based on the current or anticipated business of the firm, partnership, association or professional corporation involving the agencies listed in this subsection, shall be permitted.

(e) No legislative commissioner or his partners, employees or associates shall represent any person subject to the provisions of part II concerning the promotion of or opposition to legislation before the General Assembly, or accept any employment which includes an agreement or understanding to influence, or which is inconsistent with, the performance of his official duties.

(f) No person shall offer or give to a public official or state employee or candidate for public office or his spouse, his parent, brother, sister or child or spouse of such child or a business with which he is associated, anything of value, including but not limited to, a gift, loan, political contribution, reward or promise of future employment based on any understanding that the vote, official action or judgment of the public official, state employee or candidate for public office would be or had been influenced thereby.

(g) No public official or state employee or candidate for public office shall solicit or accept anything of value, including but not limited to, a gift, loan, political contribution, reward or promise of future employment based on any understanding that the vote, official action or judgment of the public official or state employee or candidate for public office would be or had been influenced thereby.

(h) Nothing in subsection (f) or (g) of this section shall be construed (1) to apply to any promise made in violation of subdivision (6) of section 9-333x or (2) to permit any activity otherwise prohibited in section 53a-147 or 53a-148.

(i) No public official or state employee or member of his immediate family or a business with which he is associated shall enter into any contract with the state, valued at one hundred dollars or more, other than a contract of employment as a state employee or pursuant to a court appointment, unless the contract has been awarded through an open and public process, including prior public offer and subsequent public disclosure of all proposals considered and the contract awarded. In no event shall an executive head of an agency, as defined in section 4-166, including a commissioner of a department, or an executive head of a quasi-public agency, as defined in section 1-79, or his immediate family or a business with which he is associated enter into any contract with that agency or quasi-public agency. Nothing in this subsection shall be construed as applying to any public official who is appointed as a member of the executive branch or as a member or director of a quasi-public agency and who receives no compensation other than per diem payments or reimbursement for actual or necessary expenses, or both, incurred in the performance of his duties unless such public official has authority or control over the subject matter of the contract. Any contract made in violation of this subsection shall be voidable by a court of competent jurisdiction if the suit is commenced within ninety days of the making of the contract.

(j) No public official, state employee or candidate for public office, or a member of any such person's staff or immediate family shall knowingly accept any gift, as defined in subsection (e) of section 1-79, from a person known to be a registrant or anyone known to be acting on behalf of a registrant.

(k) No public official or state employee shall accept a fee or honorarium for an article, appearance or speech, or for participation at an event, in the public official's or state employee's official capacity, provided a public official or state employee may receive payment or reimbursement for necessary expenses for any such activity in his official capacity. If a public official or state employee receives such a payment or reimbursement for lodging or out-of-state travel or both, the official or employee shall, within thirty days, file a report of the payment or reimbursement with the commission, unless the payment or reimbursement is provided by the federal government or another state government. If a public official or state employee does not file such report within such period, either intentionally or due to gross negligence on the public official's or state employee's part, the public official or state employee shall return the payment or reimbursement. If any failure to file such report is not intentional or due to gross negligence on the part of the public official or state employee, the public official or state employee shall not be subject to any penalty under this chapter. When a public official or state employee attends an event in this state in the public official's or state employee's official capacity and as a principal speaker at such event and receives admission to or food or beverage at such event from the sponsor of the event, such admission or food or beverage shall not be considered a gift and no report shall be required from such official or employee or from the sponsor of the event.

(l) No public official or state employee, or any person acting on behalf of a public official or state employee, shall wilfully and knowingly interfere with, influence, direct or solicit existing or new lobbying contracts, agreements or business relationships for or on behalf of any person.

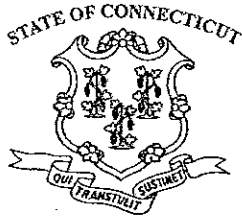
(m) No public official or state employee shall knowingly accept, directly or indirectly, any gift, as defined in subsection (e) of section 1-79, from any person the official or employee knows or has reason to know: (1) Is doing business with or seeking to do business with the department or agency in which the official or employee is employed or (2) is engaged in activities which are directly regulated by such department or agency. No person shall knowingly give, directly or indirectly, any gift or gifts in violation of this provision.

(n) (1) As used in this subsection, (A) "investment services" means investment legal services, investment banking services, investment advisory services, underwriting services, financial advisory services or brokerage firm services, and (B) "principal of an investment services firm" means (i) an individual who is a director of or has an ownership interest in an investment services firm, except for an individual who owns less than five per cent of the shares of an investment services firm which is a publicly traded corporation, (ii) an individual who is employed by an investment services firm as president, treasurer, or executive or senior vice president, (iii) an employee of such an investment services firm who has managerial or discretionary responsibilities with respect to any investment services, (iv) the spouse or dependent child of an individual described in this subparagraph, or (v) a political committee established by or on behalf of an individual described in this subparagraph.

(2) The State Treasurer shall not pay any compensation, expenses or fees or issue any contract to any firm which provides investment services when (A) a

political committee, as defined in section 9-333a, established by such firm, or (B) a principal of the investment services firm has made a contribution, as defined in section 9-333b, to, or solicited contributions on behalf of, any exploratory committee or candidate committee, as defined in section 9-333a, established by the State Treasurer as a candidate for nomination or election to the office of State Treasurer. The State Treasurer shall not pay any compensation, expenses or fees or issue any contract to such firms or principals during the term of office as State Treasurer, including, for an incumbent State Treasurer seeking reelection, any remainder of the current term of office.

(o) Any person who (1) (A) is doing business with or seeking to do business with the department or agency in which a public official or state employee is employed or (B) is engaged in activities which are directly regulated by such department or agency and (2) gives to such public official or state employee anything of value which is subject to the reporting requirements pursuant to subsection (e) of section 1-96 shall, not later than ten days thereafter, give such recipient a written report stating the name of the donor, a description of the item or items given, the value of such items and the cumulative value of all items given to such recipient during that calendar year. The provisions of this subsection shall not apply to a political contribution otherwise reported as required by law.



General Assembly

February Session, 2004

Raised Bill No. 121

LCO No. 1041



Referred to Committee on Government Administration and
Elections

Introduced by:
(GAE)

***AN ACT CONCERNING PROHIBITED COMMUNICATIONS BETWEEN
CONTRACT BIDDERS AND PUBLIC OFFICIALS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 4b-91 of the general statutes, as amended by
2 section 1 of public act 03-215, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2004*):

4 (a) Every contract for the construction, reconstruction, alteration,
5 remodeling, repair or demolition of any public building for work by
6 the state, which is estimated to cost more than five hundred thousand
7 dollars, except (1) a contract awarded by the Commissioner of Public
8 Works for (A) a community court project, as defined in subsection (j) of
9 section 4b-55, as amended, (B) the Connecticut Juvenile Training
10 School project, as defined in subsection (k) of section 4b-55, as
11 amended, (C) the downtown Hartford higher education center project,
12 as defined in subsection (l) of section 4b-55, as amended, (D) The
13 University of Connecticut library project, as defined in subsection (d)
14 of section 4b-55, as amended, (E) a correctional facility project, as
15 defined in subsection (m) of section 4b-55, as amended, (F) a juvenile

16 detention center project, as defined in subsection (n) of section 4b-55,
 17 as amended, or (G) a student residential facility for the Connecticut
 18 State University system that is a priority higher education facility
 19 project, as defined in subsection (f) of section 4b-55, as amended, or (2)
 20 a project, as defined in subdivision (16) of section 10a-109c, undertaken
 21 and controlled by The University of Connecticut in accordance with
 22 section 10a-109n, shall be awarded to the lowest responsible and
 23 qualified general bidder who is prequalified pursuant to section 4a-100
 24 on the basis of competitive bids in accordance with the procedures set
 25 forth in this chapter and subdivision (4) of section 4b-24, as amended,
 26 after the Commissioner of Public Works or, in the case of a contract for
 27 the construction of or work on a building under the supervision and
 28 control of the Joint Committee on Legislative Management of the
 29 General Assembly, the joint committee or, in the case of a contract for
 30 the construction of or work on a building under the supervision and
 31 control of one of the constituent units of the state system of higher
 32 education, the constituent unit, has invited such bids by
 33 advertisements inserted at least once in one or more newspapers
 34 having a circulation in each county in the state. The Commissioner of
 35 Public Works, the joint committee or the constituent unit, as the case
 36 may be, shall indicate the prequalification classification and aggregate
 37 work capacity rating required for the contract in such advertisement.
 38 As used in this section, "prequalification classification" means the
 39 prequalification classifications established by the Commissioner of
 40 Administrative Services pursuant to section 4a-100 and "aggregate
 41 work capacity rating" means the aggregate work capacity ratings
 42 established by the Commissioner of Administrative Services pursuant
 43 to section 4a-100.

44 (b) The Commissioner of Public Works, the joint committee or the
 45 constituent unit, as the case may be, shall determine the manner of
 46 submission and the conditions and requirements of such bids, and the
 47 time within which the bids shall be submitted, consistent with the
 48 provisions of sections 4b-91 to 4b-96, inclusive, as amended. Such
 49 award shall be made within sixty days after the opening of such bids.

50 If the general bidder selected as the general contractor fails to perform
 51 the general contractor's agreement to execute a contract in accordance
 52 with the terms of the general contractor's general bid and furnish a
 53 performance bond and also a labor and materials or payment bond to
 54 the amount specified in the general bid form, an award shall be made
 55 to the next lowest responsible and qualified general bidder. No
 56 employee of the Department of Public Works, the joint committee or a
 57 constituent unit with decision-making authority concerning the award
 58 of a contract, or a public official, may communicate with any bidder
 59 prior to the award of the contract if the communication results in the
 60 bidder receiving information about the contract that is not available to
 61 other bidders, except that if the lowest responsible and qualified
 62 bidder's price submitted is in excess of funds available to make an
 63 award, the Commissioner of Public Works, the Joint Committee on
 64 Legislative Management or the constituent unit, as the case may be,
 65 may negotiate with such bidder and award the contract on the basis of
 66 the funds available, without change in the contract specifications,
 67 plans and other requirements. If the award of a contract on said basis
 68 is refused by such bidder, the Commissioner of Public Works, the Joint
 69 Committee on Legislative Management or the constituent unit, as the
 70 case may be, may negotiate with other contractors who submitted bids
 71 in ascending order of bid prices without change in the contract,
 72 specifications, plans and other requirements. In the event of
 73 negotiation with general bidders as provided in this section, the
 74 general bidder involved may negotiate with subcontractors on the
 75 same basis, provided such general bidder shall negotiate only with
 76 subcontractors named on such general bidder's general bid form.

77 (c) On and after October 1, 2004, no person may bid on a contract,
 78 except for a project described in subdivision (2) of subsection (a) of this
 79 section, for the construction, reconstruction, alteration, remodeling,
 80 repair or demolition of any public building for work by the state or a
 81 municipality, which is estimated to cost more than five hundred
 82 thousand dollars and is paid for, in whole or in part, with state funds,
 83 unless the person is prequalified in accordance with section 4a-100.

84 (d) On and after October 1, 2004, each bid submitted for a contract
 85 described in subsection (c) of this section shall include a copy of a
 86 prequalification statement issued by the Commissioner of
 87 Administrative Services showing that the bidder has the
 88 prequalification classification and aggregate work capacity ratings
 89 required under such contract. The bid shall also be accompanied by an
 90 update statement in such form as the Commissioner of Administrative
 91 Services prescribes. The form for such update statement shall provide
 92 space for information regarding all projects completed by the bidder
 93 since the date the bidder's prequalification certificate was issued or
 94 renewed, all projects the bidder currently has under contract,
 95 including the percentage of work on such projects not completed, the
 96 names and qualifications of the personnel who will have supervisory
 97 responsibility for the performance of the contract, any significant
 98 changes in the bidder's financial position or business organization
 99 since the date the certificate was issued or renewed, and such other
 100 relevant information as the Commissioner of Administrative Services
 101 prescribes. Any bid submitted without a copy of the prequalification
 102 certificate and an update statement shall be invalid.

103 (e) Any person who bids on a contract described in subsection (c) of
 104 this section shall certify under penalty of false statement at the
 105 conclusion of the bidding process that the information in the bid is
 106 true, that there has been no substantial change in the bidder's financial
 107 position or corporate structure since the bidder's most recent
 108 prequalification certificate was issued or renewed, other than those
 109 changes noted in the update statement, and that the bid was made
 110 without fraud or collusion with any person.

111 (f) Any person who receives information from an employee of the
 112 Department of Public Works, the joint committee or a constituent unit
 113 with decision making authority concerning the award of a contract, a
 114 public official that is not available to the general public concerning any
 115 construction, reconstruction, alteration, remodeling, repair or
 116 demolition project on a public building prior to the date that an

117 advertisement for bids on the project is published shall be disqualified
118 from bidding on the project.

119 (g) Notwithstanding the provisions of this chapter regarding
120 competitive bidding procedures, the commissioner may select and
121 interview at least three responsible and qualified general contractors
122 who are prequalified pursuant to section 4a-100 and selected by the
123 award panel established in subdivision (4) of section 4b-24, as
124 amended. The commissioner may negotiate with any one of such
125 contractors a contract which is both fair and reasonable to the state for
126 a community court project, as defined in subsection (j) of section 4b-55,
127 as amended, the downtown Hartford higher education center project,
128 as defined in subsection (l) of section 4b-55, as amended, The
129 University of Connecticut library project, as defined in subsection (d)
130 of section 4b-55, as amended, the Connecticut Juvenile Training School
131 project, as defined in subsection (k) of section 4b-55, as amended, a
132 correctional facility project, as defined in subsection (m) of section 4b-
133 55, as amended, a juvenile detention center project, as defined in
134 subsection (n) of section 4b-55, as amended, or a student residential
135 facility for the Connecticut State University system that is a priority
136 higher education facility project, as defined in subsection (f) of section
137 4b-55, as amended. Any general contractor awarded a contract
138 pursuant to this subsection shall be subject to the same requirements
139 concerning the furnishing of bonds as a contractor awarded a contract
140 pursuant to subsection (b) of this section. On and after October 1, 2004,
141 any agency that seeks to have a project awarded without being subject
142 to competitive bidding procedures shall certify to the joint committee
143 of the General Assembly having cognizance of matters relating to
144 legislative management that the project is of such an emergency nature
145 that an exception to competitive bidding procedures is required. Such
146 certification shall include input from all affected agencies, detail the
147 need for the exception and include any relevant documentation.

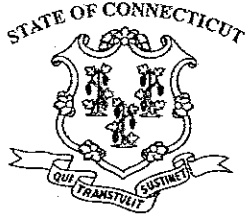
This act shall take effect as follows:

Section 1	October 1, 2004
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Statement of Purpose:

To clarify the restrictions on prohibited communications during the award process for state construction contracts.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



General Assembly

February Session, 2004

Raised Bill No. 578

LCO No. 2143



Referred to Committee on Government Administration and
Elections

Introduced by:
(GAE)

***AN ACT MAKING CERTAIN GIFTS FROM STATE CONTRACTORS,
POTENTIAL STATE CONTRACTORS OR SUPERVISED EMPLOYEES
TO STATE OFFICIALS AND EMPLOYEES A CRIMINAL VIOLATION.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (a) of section 1-89 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2004*):

4 (a) Any person who (1) intentionally violates any provision of this
5 part, (2) is doing business with or seeking to do business with a state
6 department or agency or a quasi-public agency and makes a gift or
7 gifts having an aggregate value of one thousand dollars or more in any
8 calendar year in violation of any provision of this part, or (3) is a public
9 official or state employee and makes such a gift or gifts to a supervisor
10 of said official or employee shall be imprisoned for a term not to
11 exceed one year or shall be fined an amount not to exceed two
12 thousand dollars, or both, provided no person may be found guilty of
13 a violation of subsection (f) or (g) of section 1-84, as amended, and
14 bribery or bribe receiving under section 53a-147, as amended, or 53a-

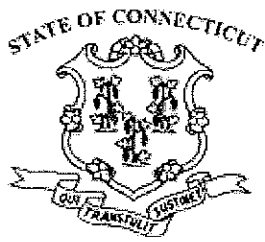
15 148, as amended, upon the same incident, but such person may be
16 charged and prosecuted for all or any of such offenses upon the same
17 information.

This act shall take effect as follows:	
Section 1	July 1, 2004

Statement of Purpose:

To make illegal gifts of one thousand dollars or more from state contractors, persons seeking to become state contractors or supervised state officials and employees to state officials and employees a criminal violation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



12-83

33

General Assembly

February Session,
2004**Substitute Bill No. 5025****AN ACT STRENGTHENING ETHICS LAWS CONCERNING GIFTS, FINANCIAL DISCLOSURE AND STATE CONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 1-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) (1) All state-wide elected officers, members of the General Assembly, department heads and their deputies, members of the Gaming Policy Board, the executive director of the Division of Special Revenue within the Department of Revenue Services, members or directors of each quasi-public agency, members of the Investment Advisory Council, state marshals and such members of the Executive Department and such employees of quasi-public agencies as the Governor shall require, shall file, under penalty of false statement, a statement of financial interests for the preceding calendar year with the commission on or before the May first next in any year in which they hold such a position. Any such individual who leaves his or her office or position shall file a statement of financial interests covering that portion of the year during which such individual held his or her office or position. The commission shall notify such individuals of the requirements of this subsection within thirty days after their departure from such office or position. Such individuals shall file such statement within sixty days after receipt of the notification.

(2) Each state agency, department, board and commission shall develop and implement, in cooperation with the Ethics Commission, an ethics statement as it relates to the mission of the agency, department, board or commission. The executive head of each such agency, department, board or commission shall be directly responsible for the development and enforcement of such ethics statement and shall file a copy of such ethics statement with the Department of Administrative Services and the Ethics Commission.

(b) (1) The statement of financial interests, except as provided in subdivision (2) of this subsection, shall include the following information for the preceding calendar year in regard to the individual required to file the statement and the individual's spouse and dependent children residing in the individual's household: (A) The names of all businesses with which associated; (B) the category or type of all sources of income in excess of one thousand dollars,

without specifying amounts of income; (C) the name of securities in excess of five thousand dollars at fair market value owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children; (D) the existence of any known blind trust and the names of the trustees; (E) all real property and its location, whether owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children; (F) the names and addresses of creditors to whom the individual, the individual's spouse or dependent children, individually, owed debts of more than ten thousand dollars; [and] (G) any leases or contracts with the state held or entered into by the individual or a business with which he or she was associated; and (H) a description of any partnership, joint ownership or similar business affiliation between (i) a business included under subparagraph (A) of this subdivision with which the individual filing the statement, the individual's spouse or a dependent child of the individual is associated, and (ii) a lobbyist, a person that the individual filing the statement knows or has reason to know is doing business with or seeking to do business with the state or is engaged in activities that are directly regulated by the department or agency in which the individual is employed, or a business with which such lobbyist or person is associated. (2) The statement of financial interests filed by state marshals shall include only amounts and sources of income earned in their capacity as state marshals.

(c) The statement of financial interests filed pursuant to this section shall be a matter of public information, except the list of names, filed in accordance with subparagraph (F) of subdivision (1) of subsection (b) of this section shall be sealed and confidential and for the use of the commission only after a complaint has been filed under section 1-82 and such complaint has been determined by a vote of the commission to be of sufficient merit and gravity to justify the unsealing of such list or lists and not open to public inspection unless the respondent requests otherwise. If the commission reports its findings to the Chief State's Attorney in accordance with subsection (c) of section 1-88, the commission shall turn over to the Chief State's Attorney such relevant information contained in the statement as may be germane to the specific violation or violations or a prosecutorial official may subpoena such statement in a criminal action. Unless otherwise a matter of public record, the Ethics Commission shall not disclose to the public any such subpoena which would be exempt from disclosure by the issuing agency.

(d) Any individual who is unable to provide information required under the provisions of subdivision (1) of subsection (b) of this section by reason of impossibility may petition the commission for a waiver of the requirements.

Sec. 2. Section 1-84 of the general statutes, as amended by section 146 of public act 03-6 of the June 30 special session, is amended by adding subsection (p) as follows (*Effective October 1, 2004*):

(NEW) (p) No public official or state employee shall knowingly accept, directly or indirectly, any goods or services provided to the state under subdivision (5) of subsection (e) of section 1-79, by a person prohibited from making gifts to public officials and state employees under this section or section 1-97, without the approval of the commission.

Sec. 3. (NEW) (*Effective October 1, 2004*) (a) Not later than thirty days after the effective date of this section, each state agency and quasi-public agency shall publish on the agency's web site each existing contract entered into by the agency and having a cost of more than one hundred thousand dollars.

(b) Not later than fifteen days after any state agency or quasi-public agency enters into a contract having a cost of more than one hundred thousand dollars, the agency shall publish such contract on the agency's web site.

(c) As used in this section, "quasi-public agency" has the same meaning as provided in section 1-79 of the general statutes.

Sec. 4. (NEW) (*Effective October 1, 2004*) (a) As used in this section, (1) "gift" has the same meaning as provided in section 1-79 of the general statutes, except that the exclusion in subdivision (12) of subsection (e) of said section 1-79 for a gift for the celebration of a major life event shall not apply, (2) "quasi-public agency", "public official" and "state employee" have the same meanings as provided in section 1-79 of the general statutes, and (3) "participated substantially" has the same meaning as provided in regulations adopted by the State Ethics Commission pursuant to section 1-92 of the general statutes.

(b) The State Properties Review Board shall not approve a contract or lease, proposed by a state agency, except for The University of Connecticut, and having a cost of more than five hundred thousand dollars, unless the agency submits to said board:

(1) An affidavit, which shall be submitted by each person, firm or corporation submitting a bid or proposal for the contract or lease. The affidavit shall be submitted with the bid or proposal and shall be signed by the official of the person, firm or corporation who submits such bid or proposal. Such affidavit shall attest to whether or not such person, firm, corporation, and any official or employee of the person, firm or corporation or any agent of such official, employee or person, firm or corporation, who participated substantially in preparing the bid or proposal, provided a gift during the five-year period preceding the submission of such bid or proposal to (A) any public official or state employee of the state agency soliciting bids or proposals for the contract or lease, or (B) any public official or state employee of any other state agency having supervisory or appointing authority over such state agency, which public official or state employee participated substantially in the preparation of the bid solicitation or request for proposals for the contract or lease. The affidavit shall also attest that no such official or employee of the person, firm or corporation or agent of such official, employee or person, firm or corporation knows of any action by the person, firm or corporation to circumvent the requirements of this subdivision by providing for any other official, employee or agent to provide a gift to any such public official or state employee. If any gift described in this subdivision was provided, the affidavit shall include a description of the gift and the value and approximate date of the gift;

(2) An affidavit signed by the official of the person, firm or corporation awarded the contract or lease, which shall be submitted at the time the contract or lease is executed. The affidavit shall attest to whether or not gifts described in subdivision (1) of this subsection were

provided between the date of the affidavit under subdivision (1) of this subsection and the date of execution of the contract or lease to public officials or state employees who participated substantially in the negotiation or award of the contract or lease. If any such gift was provided, the affidavit shall include a description of the gift and the value and approximate date of the gift;

(3) An affidavit, signed by each public official or state employee who participated substantially in the bid solicitation or request for proposals for the contract or lease, attesting to whether or not such official or employee received a gift during the five-year period preceding the submission of the bid or proposal from any person, firm or corporation submitting a bid or proposal, any official or employee of the person, firm or corporation, or any agent of such official, employee, person, firm or corporation. If any such gift was received under this subdivision, the affidavit shall include a description of the gift and the value and approximate date of the gift; and

(4) An affidavit, signed by each public official or state employee who participated substantially in the negotiation or award of the contract or lease, attesting to whether or not gifts described in subdivision (3) of this subsection were received between the date of the affidavit under subdivision (3) of this subsection and the date of execution of the contract or lease. If any such gift was received, the affidavit shall include a description of the gift and the value and approximate date of the gift.

(c) No quasi-public agency or The University of Connecticut shall execute a contract or lease having a cost of more than five hundred thousand dollars unless the agency or said university obtains the affidavits described in subsection (b) of this section.

(d) The provisions of subsections (b) and (c) of this section shall also apply to (1) any subcontract under a contract pursuant to said subsections (b) and (c), which subcontract has a cost of more than five hundred thousand dollars, and (2) an amendment to a contract, lease or subcontract under said subsections (b) and (c), which amendment has a cost of more than five hundred thousand dollars. The affidavits required for such amendments shall apply to gifts provided or received during the five-year period preceding the date of execution of the amendment.

(e) The provisions of subsections (b), (c) and (d) of this section shall not apply to a contract for a grant required under the general statutes to be provided in accordance with a formula.

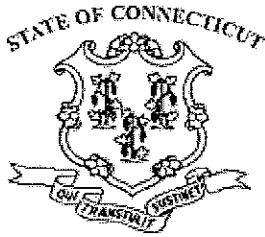
(f) Each affidavit required under this section shall be sworn as true to the best knowledge and belief of the person signing the affidavit, subject to the penalties of false statement.

This act shall take effect as follows:	
Section 1	October 1, 2004
Sec. 2	October 1, 2004
Sec. 3	October 1, 2004

Sec. 4

October 1, 2004

GAE *Joint Favorable Subst.*



*NOT version
that became law*

11-§ 2(e)

General Assembly

File No. 408

February Session,
2004

Substitute House Bill No. 5433

House of Representatives, April 1, 2004

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT REVISING PREQUALIFICATION REQUIREMENTS FOR STATE
CONSTRUCTION CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 4b-91 of the general statutes, as amended by section 1 of public act 03-215, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state, which is estimated to cost more than five hundred thousand dollars, except (1) a contract awarded by the Commissioner of Public Works for (A) a community court project, as defined in subsection (j) of section 4b-55, (B) the Connecticut Juvenile Training School project, as defined in subsection (k) of section 4b-55, (C) the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, (D) The University of Connecticut library project, as defined in subsection (d) of section 4b-55, (E) a correctional facility project, as defined in subsection (m) of section 4b-55, (F) a juvenile detention center project, as defined in subsection (n) of section 4b-55, or (G) a student residential facility for the Connecticut State University system that is a priority higher education facility project, as defined in subsection (f) of section 4b-55, or (2) a project, as defined in subdivision (16) of section 10a-109c, undertaken and controlled by The University of Connecticut in accordance with section 10a-109n, shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant to section 3 of [this act] public act 03-215, as amended by this act on the basis of competitive bids in accordance with the procedures set forth in this chapter, [and section 8 of this act,] after the Commissioner of Public Works or, in the case of a contract for the construction of or work on a building under the supervision and control of the Joint Committee on Legislative Management of the

General Assembly, the joint committee or, in the case of a contract for the construction of or work on a building under the supervision and control of one of the constituent units of the state system of higher education, the constituent unit, has invited such bids by advertisements inserted at least once in one or more newspapers having a circulation in each county in the state. The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall indicate the prequalification classification and aggregate work capacity rating required for the contract in such advertisement. As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of Administrative Services pursuant to section 3 of [this act] public act 03-215, as amended by this act and "aggregate work capacity rating" means the aggregate work capacity ratings established by the Commissioner of Administrative Services pursuant to section 3 of [this act] public act 03-215, as amended by this act.

(b) The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of sections 4b-91 to 4b-96, inclusive, as amended. Such ~~award shall be made within sixty days after the opening of such bids.~~ If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to the amount specified in the general bid form, an award shall be made to the next lowest responsible and qualified general bidder. No employee of the Department of Public Works, the joint committee or a constituent unit with decision-making authority concerning the award of a contract and no public official may communicate with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract that is not available to other bidders, except that if the lowest responsible and qualified bidder's price submitted is in excess of funds available to make an award, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with such bidder and award the contract on the basis of the funds available, without change in the contract specifications, plans and other requirements. If the award of a contract on said basis is refused by such bidder, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with other contractors who submitted bids in ascending order of bid prices without change in the contract, specifications, plans and other requirements. In the event of negotiation with general bidders as provided in this section, the general bidder involved may negotiate with subcontractors on the same basis, provided such general bidder shall negotiate only with subcontractors named on such general bidder's general bid form.

(c) On and after October 1, 2004, no person may bid on a contract, except for a project described in subdivision (2) of subsection (a) of this section, for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for

work by the state or a municipality, which is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, unless the person is prequalified in accordance with section 3 of [this act] public act 03-215, as amended by this act.

(d) On and after October 1, 2004, each bid submitted for a contract described in subsection (c) of this section shall include a copy of a prequalification statement issued by the Commissioner of Administrative Services showing that the bidder has the prequalification classification and aggregate work capacity ratings required under such contract. The bid shall also be accompanied by an update statement in such form as the Commissioner of Administrative Services prescribes. The form for such update statement shall provide space for information regarding all projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has under contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or [business organization] corporate structure since the date the certificate was issued or renewed, and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate and an update statement shall be invalid.

(e) Any person who bids on a contract described in subsection (c) of this section shall certify under penalty of false statement at the conclusion of the bidding process that the information in the bid is true, that there has been no substantial change in the bidder's financial position or corporate structure since the bidder's most recent prequalification certificate was issued or renewed, other than those changes noted in the update statement, and that the bid was made without fraud or collusion with any person.

(f) Any person who receives information from a state employee or public official that is not available to the general public concerning any construction, reconstruction, alteration, remodeling, repair or demolition project on a public building prior to the date that an advertisement for bids on the project is published shall be disqualified from bidding on the project.

(g) Notwithstanding the provisions of this chapter regarding competitive bidding procedures, the commissioner may select and interview at least three responsible and qualified general contractors who are prequalified pursuant to section 3 of [this act] public act 03-215, as amended by this act, and selected by the award panel established in [subdivision (4) of section 4b-24] section 8 of public act 03-215, as amended by this act. The commissioner may negotiate with any one of such contractors a contract which is both fair and reasonable to the state for a community court project, as defined in subsection (j) of section 4b-55, the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, The University of Connecticut library project, as defined in subsection (d) of section 4b-55, the Connecticut Juvenile Training School project, as defined in subsection (k) of section 4b-55, a correctional facility project, as defined in subsection (m) of section 4b-55, a juvenile detention center project, as

defined in subsection (n) of section 4b-55, or a student residential facility for the Connecticut State University system that is a priority higher education facility project, as defined in subsection (f) of section 4b-55. Any general contractor awarded a contract pursuant to this subsection shall be subject to the same requirements concerning the furnishing of bonds as a contractor awarded a contract pursuant to subsection (b) of this section.

(h) On and after October 1, 2004, any agency that seeks to have a project awarded without being subject to competitive bidding procedures shall certify to the joint committee of the General Assembly having cognizance of matters relating to legislative management that the project is of such an emergency nature that an exception to competitive bidding procedures is required. Such certification shall include input from all affected agencies, detail the need for the exception and include any relevant documentation.

(i) In the event that a specific project is authorized by the General Assembly to be awarded without competitive bidding, the commissioner may select at least three responsible and qualified general contractors who are prequalified pursuant to section 3 of public act 03-215, as amended by this act, and submit the three selected contractors to the construction services award panels process described in section 8 of public act 03-215, as amended by this act, and any regulation adopted by the commissioner.

Sec. 2. Section 3 of public act 03-215 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*) :

(a) As used in this section: (1) "Prequalification" means prequalification issued by the Commissioner of Administrative Services to bid on a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality; (2) "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars; and (3) "principals and key personnel" includes officers, directors, shareholders, members, partners and managerial employees.

(b) (1) Any person may apply for prequalification to the Department of Administrative Services. Such application shall be made on such form as the Commissioner of Administrative Services prescribes and shall be accompanied by a nonrefundable application fee as set forth in subdivision (2) of this subsection. The application shall be signed under penalty of false statement.

(2) The application fee shall be as follows:

T1	Aggregate Work Capacity Rating	Fee
T2	\$5, 000, 000.00 or	\$600.00

	less	
T3	\$5, 000, 000.01 - \$8, 000, 000.00	\$750.00
T4	\$8, 000, 000.01 - \$10, 000, 000.00	\$850.00
T5	\$10, 000, 000.01 - \$15, 000, 000.00	\$1, 000.00
T6	\$15, 000, 000.01 - \$20, 000, 000.00	\$1, 500.00
T7	\$20, 000, 000.01 - \$40, 000, 000.00	\$2, 000.00
T8	\$40, 000, 000.01 or more	\$2, 500.00

(c) The application form shall, at a minimum, require the applicant to supply information concerning:

(1) The applicant's form of organization;

(2) The applicant's principals and key personnel and any names under which the applicant, principals or key personnel conducted business during the past five years;

(3) The applicant's experience on public and private construction projects over the past five years, or on the applicant's ten most recently-completed projects and the names of any subcontractors used on the projects;

(4) Any legal or administrative proceedings pending or concluded adversely against the applicant or any of the applicant's principals or key personnel within the past five years which relate to the procurement or performance of any public or private construction contract and whether the applicant is aware of any investigation pending against the applicant or any principal or key personnel;

(5) The nature of any financial, personal or familial relationship between the applicant and any public or private construction project owner listed on the application as constituting construction experience;

(6) A statement of whether (A) the applicant has been disqualified pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B) the applicant is on the list distributed by the Labor Commissioner pursuant to section 31-57a, (C) the applicant is disqualified or prohibited from being awarded a contract pursuant to section 31-57b, (D) the applicant has been disqualified by another state, (E) the applicant has been disqualified by a federal agency or pursuant to federal law, (F) the applicant's registration has been suspended or revoked by the Department of Agriculture and Consumer Protection pursuant to section 20-341gg, as amended, (G) the applicant has been disqualified by a

municipality, and (H) the matters that gave rise to any such disqualification, suspension or revocation have been eliminated or remedied; and

(7) Other information as the commissioner deems relevant to the determination of the applicant's qualifications and responsibilities.

(d) The applicant shall include a statement of financial condition prepared by a certified public accountant which includes information concerning the applicant's assets and liabilities, plant and equipment, bank and credit references, bonding company and maximum bonding capacity, and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility.

(e) The application shall include a sworn statement that the principal and all employees with significant responsibility have read the contractor's code of ethics contained in sections 5 to 7, inclusive, of this act. Additionally, such application shall include a copy of any affidavit required by the provisions of section 4 of house bill 5025 of the current session.

~~[(e)]~~ (f) Information contained in the application shall be current as of the time of filing except that the statement of financial condition shall pertain to the applicant's most recently-completed fiscal year.

~~[(f)]~~ (g) The commissioner shall determine whether to prequalify an applicant on the basis of the application and on relevant past performance according to procedures and criteria set forth in regulations which the commissioner shall adopt, in accordance with chapter 54. Such criteria shall include, at a minimum, the record of the applicant's performance, including, but not limited to, written evaluations of the applicant's performance on public or private projects within the past five years, the applicant's past experience on projects of various size and type, the skill, ability and integrity of the applicant and any subcontractors used by the applicant, the experience and qualifications of supervisory personnel employed by the applicant, the maximum amount of work the applicant is capable of undertaking as demonstrated by the applicant's financial condition, bonding capacity, size of past projects and present and anticipated work commitments, and any other relevant criteria that the commissioner prescribes. Such regulations shall also (1) provide that the criteria considered shall be assigned separate designated numerical values and weights and that the applicant shall be assigned an overall numerical rating on the basis of all criteria, and (2) establish prequalification classifications and aggregate work capacity ratings. Such prequalification classifications shall be used to establish the types of work a contractor is qualified to perform and the aggregate work capacity ratings shall be used to establish the maximum amount of work a contractor is capable of undertaking.

~~[(g)]~~ (h) (1) The applicant shall indicate the prequalification classifications and aggregate work capacity rating that are sought. The commissioner may issue a certificate of prequalification to any applicant who meets the requirements of this section. Such certificate shall be effective for one year from the date issued and shall indicate the

contractor's prequalification classifications and aggregate work capacity ratings. The commissioner may cause the initial certificate of prequalification to be effective for a period not to exceed two years and may require the applicant to remit payment of the application fee, as set forth in subsection (b) of this section, for the first twelve months of certification as well as a prorated application fee, as described in subdivision (3) of this subsection, for any additional period of certification beyond the first twelve months.

(2) A prequalified contractor may apply at any time for additional prequalification classifications or aggregate work capacity ratings by submitting the applicable increase in fee, a completed update statement, and other information the commissioner requires.

(3) The commissioner may renew a prequalification certificate upon receipt of a completed update statement, any other material the commissioner requires and a nonrefundable fee in an amount equal to one-half of the application fee for the applicable aggregate work capacity rating as set forth in subsection (b) of this section, except that in no event shall such fee be less than six hundred dollars.

~~[(h)]~~ (i) Not later than sixty days after receiving a completed application, the commissioner shall mail or send by electronic mail a notice to the applicant concerning the commissioner's preliminary determination regarding the conditions of the prequalification certification, a denial of certification, a reduction in the level of certification sought or nonrenewal of certification. Any applicant aggrieved by the commissioner's preliminary determination may request copies of the information upon which the commissioner relied in making the preliminary determination, provided such request is made not later than ten days after the date the notice was mailed [as indicated by the postmark on the envelope] or sent by electronic mail to the applicant. Not later than twenty days after [said postmark date] the date the notice was mailed or sent by electronic mail, the applicant may submit additional information to the commissioner with a request for reconsideration. The commissioner shall issue a final determination regarding the application not later than ninety days after the date the commissioner mailed or sent by electronic mail the notice of the preliminary determination, which ninety-day period may be extended for an additional period not to exceed ninety days if (1) the commissioner gives written notice to the applicant that the commissioner requires additional time, and (2) such notice is mailed or sent by electronic mail during the initial ninety-day period.

~~[(i)]~~ (j) The commissioner may not issue a prequalification certificate to any contractor (1) who is disqualified pursuant to section 31-57c or 31-57d, [or] (2) who has a principal or key personnel who, within the past five years, has a conviction or has entered a plea of guilty or nolo contendere for or has admitted to commission of an act or omission that reasonably could have resulted in disqualification pursuant to any provision of subdivisions (1) to (3) , inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3) , inclusive, of subsection (d) of section 31-57d, as determined by the commissioner, (3) who the commissioner deems should not be prequalified based on the application for prequalification or any relevant past performance as measured by the procedures and criteria described in regulations adopted by the commissioner pursuant to subsection (g)

of this section, (4) who is found to have violated any provision of sections 5 to 7, inclusive, of this act during the five-year period prior to the commissioner's consideration of such prequalification application, or (5) who the commissioner determines should not be prequalified based on a determination by the commissioner that such prequalification would not serve the best interests of the state. Nothing in this subsection shall be construed to prohibit the commissioner from issuing a prequalification certificate to a contractor described in subdivision (5) of this subsection, if, at a later point in time, the commissioner determines that such prequalification would not adversely affect the best interests of the state.

~~[(j)]~~ (k) The commissioner may revoke a contractor's prequalification or reduce the contractor's prequalification classification or aggregate work capacity ratings, after an opportunity for a hearing, if the commissioner receives additional information that supports such revocation or reduction.

~~[(k)]~~ (l) (1) Any materially false statement in the application or any update statement may, in the discretion of the awarding authority, result in termination of any contract awarded the applicant by the awarding authority. The awarding authority shall provide ~~written~~ notice to the commissioner of such false statement not later than thirty days after discovering such false statement. The commissioner shall provide written notice of such false statement to the Commissioner of Public Works and the Commissioner of Agriculture and Consumer Protection not later than thirty days after discovering such false statement or receiving such notice.

(2) The commissioner shall revoke the prequalification of any person, after an opportunity for hearing, if the commissioner finds that the person has included any materially false statement in such application or update statement, has been convicted of a crime related to the procurement or performance of any public or private construction contract or within the past five years has violated any provision of chapter 10 or any provision of sections 5 to 7, inclusive, of this act or has otherwise engaged in fraud in obtaining or maintaining prequalification. Any person whose prequalification has been revoked pursuant to this subsection shall be disqualified for a period of two years after which the person may reapply for prequalification, except that a person whose prequalification has been revoked on the basis of conviction of a crime or having violated any provision of chapter 10 or any provision of sections 5 to 7, inclusive, of this act or engaging in fraud shall be disqualified for a period of five years after which the person may reapply for prequalification. The commissioner shall not prequalify a person whose prequalification has been revoked pursuant to this subdivision until the expiration of said two or five-year disqualification period and the commissioner is satisfied that the matters that gave rise to the revocation have been eliminated or remedied.

~~[(l)]~~ (m) The commissioner shall provide written notice of any revocation, disqualification, reduction in classification or capacity rating or reinstated prequalification to the Commissioner of Public Works and the Commissioner of Agriculture and Consumer Protection not later than thirty days after any final determination.

~~[(m)]~~ [(n)] The provisions of this section and section 4 of ~~[this act]~~ public act 03-215, as amended by this act, shall not apply to subcontractors.

~~[(n)]~~ [(o)] The commissioner shall establish an update statement for use by bidders for purposes of renewing or upgrading a prequalification certificate and for purposes of submitting a bid pursuant to section 4b-91, as amended by this act.

~~[(o)]~~ [(p)] Any applicant aggrieved by the commissioner's final determination concerning a preliminary determination, a denial of certification, a reduction in prequalification classification or aggregate work capacity rating or a revocation or nonrenewal of certification may appeal to the Superior Court in accordance with section 4-183.

Sec. 3. Section 4 of public act 03-215 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*) :

(a) The Commissioner of Administrative Services shall adopt regulations, in accordance with chapter 54, to establish a standard contractor evaluation form. Such form shall include, at a minimum, the following evaluation criteria: (1) Timeliness of performance; (2) quality of performance; (3) cost containment, including, but not limited to, the contractor's ability to work within the contract's allotted cost, the accuracy of the contractor's billing, and the number and cause of change orders and the manner in which the contractor determined the price on the change orders; (4) safety; (5) the quality of the contractor's working relationship with the agency and the quality of the contractor's supervision of the work area; (6) communication with the agency; (7) the quality of the contractor's required documentation; (8) the performance of the contractor's subcontractors, to the extent known by the official who completes the evaluation; and (9) the contractor's and any subcontractor's compliance with part III of chapter 557, or chapter 558, or the provisions of the federal Davis-Bacon Act, 40 USC, Sections 276a to 276a-5, inclusive, as from time to time amended, to the extent known by the official who completes the evaluation.

(b) Each public agency shall compile evaluation information during the performance of the contract and complete and submit the evaluation form to the commissioner after completion of a building project under the agency's control if the building project is funded, in whole or in part, by state funds. Such evaluation information shall be available to any state agency for purposes of assessing the responsibility of the contractor during a bid selection and evaluation process. The designated official from such agency shall certify that the information contained in the evaluation form represents, to the best of the certifying official's knowledge, a true and accurate analysis of the contractor's performance record on the contract. The commissioner shall include the evaluation in the contractor's prequalification file. The official shall mail a copy of the completed evaluation form to the contractor. Any contractor who wishes to contest any information contained in the evaluation form may submit a written response to the commissioner not later than thirty days after the date the form was mailed as indicated by the postmark on the envelope. Such response shall set forth any additional information concerning the building project or the oversight of the contract by the public agency that may be

relevant in the evaluation of the contractor's performance on the project. The commissioner shall include any such response in the contractor's prequalification file.

(c) As used in this section, "public agency" means a public agency, as defined in section 1-200, but does not include The University of Connecticut with respect to any project, as defined in subdivision (16) of section 10a-109c, that is undertaken and controlled by the university, and "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars.

(d) Upon fifty per cent completion of any building project under a public agency's control, the agency shall advise the contractor in writing of the agency's preliminary evaluation of the contractor's performance on the project.

(e) No public agency, employee of a public agency or certifying official of a public agency shall be held liable to any contractor for any loss or injury sustained by such contractor as the result of the completion of an evaluation form, as required by this section, unless such agency, employee or official is found by a court of competent jurisdiction to have acted in a wilful, wanton or reckless manner.

(f) Any public agency that fails to submit a completed evaluation form, as required by this section, not later than seventy days after the completion of a project, shall be ineligible for the receipt of any public funds disbursed by the state for the purposes of the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any public works project until such completed evaluation form is submitted.

Sec. 4. Section 6 of public act 03-215 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*) :

(a) Not later than January 1, [2004] 2006, and annually thereafter, each awarding authority shall prepare a report on the status of (1) any ongoing project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building which is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, or (2) any property management contract awarded by the Department of Public Works which has an annual value of one hundred thousand dollars or more. [The] Except for a school construction project, the awarding authority shall submit the report to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to government administration and finance, revenue and bonding. In any instance in which a municipality is the awarding authority for a school construction project, such municipality shall submit the report required by this section to the Department of Education who shall compile and analyze such reports in a summary submitted to the joint standing committees of the General Assembly having cognizance of matters relating to government administration and finance, revenue and bonding. The report shall be

submitted in accordance with section 11-4a. The first report submitted after a contract is awarded shall indicate: (A) When, where and how the request for bids was advertised; (B) who bid on the projects; (C) the provisions of law that governed the award of the contract and if there were any deviations from standard procedure in awarding the contract; (D) the names of the individuals who had decision-making authority in awarding the contract, including, but not limited to, the individuals who served on any award panel; (E) if an award panel was used, whether the recommendation of the panel was followed and, if applicable, the reason why such recommendation was not followed; (F) whether the awarding authority has any other contracts with the contractor who was awarded the contract, and if so, the nature and value of the contract; and (G) any provisions of law that authorized or funded the project.

(b) The University of Connecticut shall not be required to submit a report pursuant to this section for any project, as defined in subdivision (16) of section 10a-109c, that is undertaken and controlled by the university.

(c) The Commissioner of Administrative Services may, within said commissioner's discretion, grant no more than two sixty-day extensions to any awarding authority for the submission of the report described in this section.

Sec. 5. (NEW) (*Effective October 1, 2004*) As used in sections 5, 6 and 8 of this act:

(1) "Large state construction or procurement contract" means any contract, having a cost of more than five hundred thousand dollars, for (A) the remodeling, alteration, repair or enlargement of any real asset, (B) the construction, alteration, reconstruction, improvement, relocation, widening or changing of the grade of a section of a state highway or a bridge, (C) the purchase or lease of supplies, materials, or equipment, as defined in section 4a-50 of the general statutes, or (D) the construction, reconstruction, alteration, remodeling, repair or demolition of any public building.

(2) "Gift" has the same meaning as provided in subsection (e) of section 1-79 of the general statutes, except that "gift" shall also include any gift of more than one hundred dollars provided by an individual for the celebration of a major life event.

(3) "Person" has the same meaning as provided in section 1-1 of the general statutes.

(4) "Immediate family" has the same meaning as provided in section 1-79 of the general statutes.

(5) "Business with which the official or employee is associated" has the same meaning as "business with which he is associated" as defined in section 1-79 of the general statutes.

Sec. 6. (NEW) (*Effective October 1, 2004*) (a) Notwithstanding any provision of the general statutes, no person who is, or is seeking to be prequalified under section 3 of public act 03-215, as amended by this act, shall:

(1) Knowingly give or promise to give, directly or indirectly, any gift or gifts, or offer employment, to any state official or employee;

(2) With the intent to obtain a competitive advantage over other bidders, solicit any information from a state official or employee that the contractor knows is not and will not be available to other bidders for a large state construction or procurement contract that the contractor is seeking;

(3) Intentionally, wilfully or with reckless disregard for the truth, charge the state for work not performed or goods not provided, including submitting change orders in bad faith with the sole intention of increasing the contract price, falsifying invoices or bills, charging unconscionable rates for services to the state or charging unconscionable prices for goods to the state; or

(4) Intentionally or wilfully violate or attempt to circumvent state competitive bidding and ethics laws.

(b) No person with whom the state has contracted to provide consulting services to plan or develop specifications for any contract subject to the provisions of section 4b-91 of the general statutes, as amended, and no business with which such person is associated may serve as a contractor for such contract or as a subcontractor or consultant to the person who was awarded such contract.

(c) Any person who violates any provision of this section may be deemed a nonresponsible bidder by a state agency.

(d) The State Ethics Commission may investigate any violations of this section and may refer such violations to the Attorney General. Upon a finding of a violation, the State Ethics Commission may take any appropriate action pursuant to section 1-88 and 1-89 of the general statutes in the same manner as for a violation of the Code of Ethics of Public Officials.

(e) Any person who knowingly violates any provision of this section shall be guilty of a class A misdemeanor.

Sec. 7. (NEW) (*Effective October 1, 2004*) The State Ethics Commission shall develop a summary of state ethics laws concerning state contractors, including, but not limited to, provisions contained in chapter 10 of the general statutes and section 6 of this act, which shall constitute and be known as "The Connecticut State Contractor's Code of Ethics".

Sec. 8. (NEW) (*Effective October 1, 2004*) The Departments of Administrative Services, Public Works, Transportation and Information Technology, The University of Connecticut and the Connecticut State University shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, establishing objective criteria for the award of state construction and procurement contracts. Each said agency or institution shall post such criteria on its website and publicize the criteria in any other

manner that ensures that prospective bidders for such contracts are aware of the criteria.

Sec. 9. (NEW) (*Effective October 1, 2004*) (a) As used in this section:

(1) "State agency" means an executive office, department, division, board, commission or other office in the executive, legislative or judicial branch of state government; and

(2) "Competitive bid contract" means any contract awarded by a state agency pursuant to a lowest responsible bid or competitive selection process or construction services awards panels under section 8 of public act 03-215, as amended by this act.

(b) A state agency may reject any bidder as not responsible if such bidder or the bidder's agent violates any provision of chapter 10 of the general statutes or any provision of the general statutes or the regulations of Connecticut state agencies concerning competitive bidding.

(c) Each state agency that awards competitive bid contracts shall adopt policies concerning the disclosure of information concerning a competitive bid contract to bidders or potential bidders. Such policies shall require (1) each prebid submission inquiry concerning the specifications of the contract to be in writing, (2) the state agency to answer each such inquiry in writing and provide a copy of the answer to any other person who has expressed interest in bidding on such contract, except for information provided at prebid meetings to which all interested parties are invited, (3) the state agency to record any information disseminated at prebid meetings and make such information available to any interested party, and (4) the state agency to maintain a record of each communication concerning the contract between employees of the state agency and any person interested in the contract, between the date the bid is advertised and the date the contract is awarded, which record shall include the date of such communication, the name of the person requesting information, the state employee providing such information and a general description of the disseminated information.

Sec. 10. Section 4b-100 of the general statutes, as amended by section 7 of public act 03-215, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) The Commissioner of Public Works shall adopt regulations, in accordance with chapter 54, to implement the provisions of sections 4b-91 to 4b-100, inclusive, as amended. Such regulations shall include (1) objective criteria for evaluating the qualifications of bidders, [and] (2) objective criteria for evaluating proposals, and (3) the procedures for evaluating bids after the prequalification status of the bidder has been verified.

(b) The Commissioner of Public Works shall adopt regulations, in accordance with the provisions of chapter 54, establishing a procedure for promptly hearing and ruling on claims alleging a violation or violations of sections 4b-91 to 4b-100, inclusive, as amended. Such claims may be initiated by the Department of Public Works or any party whose financial interests may be affected by the decision on such a claim.

Sec. 11. Section 8 of public act 03-215 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*) :

(a) The Department of Public Works shall establish construction services award panels which shall each consist of six members: Three of whom shall be appointed by the Commissioner of Public Works and shall be current employees of the Department of Public Works; two of whom shall be appointed by the department head of the user agency; and one of whom who shall be a neutral party appointed by the commissioner. The members of each award panel appointed by the Commissioner of Public Works shall serve for terms of one year from July first. If any vacancy occurs on the panel, the Commissioner of Public Works or the head or acting head of the user agency, as appropriate, shall appoint a person for the unexpired term in accordance with the provisions of this subsection.

(b) A panel established pursuant to this section shall not be deemed to be a board or commission within the meaning of section 4-9a, as amended. Such panels shall be the award panels for any contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for the state pursuant to sections 4b-91 to 4b-100, inclusive, as amended, and section 4b-24, as amended.

(c) For each applicable contract, the commissioner shall designate one panel to screen all submitted proposals and establish a list of bidders to be interviewed and shall designate a separate panel consisting of different members to interview bidders on the list and submit a list of recommended contractors to the commissioner.

(d) The commissioner shall designate one voting member on each panel to serve as chairperson. The chairperson shall moderate the committee, collect votes and compile the results.

(e) Each award panel shall prepare a memorandum on the selection process indicating (1) how the evaluation criteria were applied by each panel member to determine the most qualified firms, (2) the ranking of each bidder by each panel member which shall be available to the public after execution of the contract with the selected contractor, and (3) a certification by each panel member that the selection of the most qualified firm was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person who was not part of the selection process.

(f) The commissioner shall select a contractor from among the list of firms submitted by the award panel that interviewed the contractors. After the commissioner has made a selection, the names of the contractor firms submitted to the commissioner shall be available to the public upon request. The commissioner shall also prepare a memorandum on the final phase of the selection process, indicating how the commissioner applied the evaluation criteria to determine the most qualified firm. Such memorandum shall include a certification by the commissioner that the commissioner's selection of the most qualified bidder was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or undue pressure from any person who

was not part of the selection process and shall be available to the public after execution of the contract with the selected contractor.

(g) The State Ethics Commission may investigate any violation of this section, including but not limited to, any false statement provided on a certification described in subsection (e) or (f) of this section, and may refer such violation to the Attorney General. Upon a finding of a violation of this section, the State Ethics Commission may take action pursuant to sections 1-88 and 1-89 as is consistent with the finding of a violation of the Code of Ethics for Public Officials.

(h) Any person who knowingly provides a false statement on a certification described in subsection (e) or (f) of this section shall be guilty of a class A misdemeanor.

[(f)] (i) The commissioner shall adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

Sec. 12. Subdivision (4) of section 4b-24 of the general statutes, as amended by section 9 of public act 03-215, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*) :

(4) The commissioner may designate projects to be accomplished on a total cost basis for (A) new facilities to provide for the substantial space needs of a requesting agency, (B) the installation of mechanical or electrical equipment systems in existing state facilities, or (C) the demolition of any state facility that the commissioner is authorized to demolish under the general statutes. If the commissioner designates a project as a designated total cost basis project, the commissioner may enter into a single contract with a private developer which may include such project elements as site acquisition, architectural design and construction. The commissioner shall select a private developer from among the developers who are selected and recommended by the award panels established in [(this subdivision)] section 8 of public act 03-215, as amended of this act. All contracts for such designated projects shall be based on competitive proposals received by the commissioner, who shall give notice of such project, and specifications for the project, by advertising, at least once, in a newspaper having a substantial circulation in the area in which such project is to be located. No contract which includes the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state for which the total cost is estimated to be more than five hundred thousand dollars may be awarded to a person who is not prequalified for the work in accordance with section 3 of [this act] public act 03-215, as amended by this act. The commissioner shall determine all other requirements and conditions for such proposals and awards and shall have sole responsibility for all other aspects of such contracts. Such contracts shall state clearly the responsibilities of the developer to deliver a completed and acceptable product on a date certain, the maximum cost of the project and, as a separate item, the cost of site acquisition, if applicable. No such contract may be entered into by the commissioner without the prior approval of the State Properties Review Board and unless funding has been authorized pursuant to the general statutes or a public or special act.

This act shall take effect as follows:	
Section 1	October 1, 2004
Sec. 2	October 1, 2004
Sec. 3	October 1, 2004
Sec. 4	October 1, 2004
Sec. 5	October 1, 2004
Sec. 6	October 1, 2004
Sec. 7	October 1, 2004
Sec. 8	October 1, 2004
Sec. 9	October 1, 2004
Sec. 10	October 1, 2004
Sec. 11	October 1, 2004
Sec. 12	October 1, 2004

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Various State Agencies	GF - Cost	Potential Significant	Potential Significant
Ethics Com.	GF - None	None	None
Education, Dept.	GF - Cost	310,000	295,000
Attorney General	GF - None	None	None
Resources of the General Fund	GF - Savings	Potential Significant	Potential Significant
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	23,265	52,639

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
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Various Municipalities	Savings	Potential Significant	Potential Significant
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Explanation

This bill requires the State Ethics Commission to develop and enforce "The Connecticut State Contractor's Code of Ethics". The bill makes anyone who violates the contractor's code subject to investigation by the Ethics Commission, wherein the commission can issue cease and desist orders, impose a civil fine, refer a matter to the attorney general or chief state's attorney. These additional responsibilities will result in a workload increase, which is expected to be handled within the existing resources of the Ethics Commission.

Section 3 of the bill makes state agencies and their employees who complete contractor evaluation forms immune from civil liability for any loss or injury sustained by a contractor due to completion of the evaluation forms. This change reduces the state's liability since state agencies and their employees are indemnified under current law. Consequently, the bill could result in future state savings by precluding certain costs associated with contracted legal representation and/or payments to claimants.

The bill also makes municipalities and their employees immune from civil liability associated with completion of the evaluation form as required under Section 6 of Public Act 03-215, as amended by the bill. To the extent this provision reduces municipalities' liability, they could experience a future savings similar to the state.

Section 4 of the bill results in a cost to the State Department of Education in FY 05 of approximately \$310, 000, a cost of \$295, 000 in FY 06 and FY 07 and an ongoing cost thereafter of \$115, 000 each year. Such funding is not contained in the budget as currently exists or as recommended by the Appropriations Committee.

The cost includes \$180, 000 for two full-time consultants from FY 05 to FY 07, computer programming costs in FY 05 of approximately \$15, 000 and ongoing costs of a full-time analyst at \$75, 000 and one clerical position at \$40, 000, plus fringe benefits¹.

These costs are necessary due to the number of contracts that will need to be reviewed and analyzed as required by the section. There are currently over 200 projects in the pipeline each with 10-20 subcontracts of over \$500, 000. This means a review of approximately 3, 000 contracts over the period of FY 05 to FY 07, which necessitates the use of the consultants. Thereafter there will be approximately 300 contracts per year needing evaluation, which would be handled by the permanent full-time staff.

Finally, the bill makes several changes to contractor prequalification applications, prequalification certificates and contractor evaluations, none of which has a fiscal impact on the Department of Administrative Services.

OLR Bill Analysis

sHB 5433

AN ACT REVISING PREQUALIFICATION REQUIREMENTS FOR STATE CONSTRUCTION CONTRACTS**SUMMARY:**

This bill makes several changes to the laws governing public construction, including who may work on public construction projects, the requirements for obtaining this work, and reports and evaluations on the quality of the work. Most of these changes are to PA 03-215, which established new procedures for bidding on and awarding public construction contracts most of which become effective on October 1, 2004. That act's prequalification provisions become effective on July 1, 2004 and its status report requirements were effective on January 1, 2004.

Specifically, the bill:

1. creates a contractors' code of ethics that the State Ethics Commission enforces in the same way as it does the State Ethics Code;
2. makes changes to contractor prequalification laws, including adding new grounds for disqualification, requiring new information on prequalification applications, and mandating additional reasons for denying and revoking prequalification certificates;
3. makes the contractor evaluations that each state agency must prepare after a construction project is completed available to all state agencies for their use in assessing the contractor's fitness for future projects;
4. absolves from liability agencies and their employees who complete the evaluations;
5. makes any agency that fails to complete the form ineligible for state public works funds;
6. delays for two years, from January 1, 2004 to January 1, 2006, awarding authorities' duty to complete status reports on construction projects;
7. requires the Construction Services Award Panel, the six-member panel responsible for awarding construction contracts, rather than the Department of Public Works (DPW) commissioner, to award non-bid contracts;
8. permits state legislative, executive, and judicial branch agencies to reject a bidder as not responsible if he violates the State Ethics Code or competitive bidding laws or regulations;

9. requires agencies that award competitive bid contracts to adopt policies for disclosing information to bidders or potential bidders;
10. increases the information that the DPW commissioner and each member of the construction awards panel must prepare on the selection process;
11. requires the public works, administrative services, transportation, and information technology departments; UCONN; and Connecticut State University to adopt regulations that establish objective criteria for awarding state construction and procurement contracts, post them on their respective websites, and otherwise publicize the criteria so as to educate prospective bidders; and
12. requires DPW regulations to include objective criteria for evaluating proposals.

EFFECTIVE DATE: October 1, 2004

ETHICS IN CONTRACTING

Contractors Code

The bill creates a three-part Connecticut State Contractor's Code of Ethics. It consists of (1) applicable provisions of the State Ethics Code, as identified and summarized by the State Ethics Commission, (2) the bill's list of prohibited activities applicable to contractors required by law to prequalify before bidding on public building construction contracts estimated to cost more than \$500,000 and (3) prohibitions against state consultants planning or developing construction contract specifications and any business that they are associated with serving as the contractor, subcontractor, or consultant on the job.

Under the bill, prequalified contractors and those seeking prequalification cannot:

1. knowingly give or promise to give, directly or indirectly, any gift or gifts, or offer employment, to any state official or employee;
2. with the intent to obtain a competitive advantage over other bidders, solicit any information from a state official or employee that they know is not and will not be available to other bidders for the large state construction or procurement contract that the contractor is seeking;
3. intentionally, willfully, or with reckless disregard for the truth, charge the state for work not performed or goods not provided, including submitting change orders in bad faith with the sole intention of increasing the contract price, falsifying invoices or bills, charging the state unconscionable rates for services or prices for goods; or
4. intentionally or willfully violate or attempt to circumvent state competitive bidding and ethics laws.

Under the bill, a contract is large if it costs more than \$500, 000 and it covers (1) remodeling, repairing, or enlarging any real asset; (2) building, altering, improving, relocating, widening, or changing the grade of a section of a state highway or bridge; (3) purchasing or leasing state supplies, equipment, or materials; or (4) building, altering, repairing, or demolishing a public building. A "gift" has the same meaning that it has in the State Ethics Code, which is generally anything of value given for less than its value. The law contains 16 gift exceptions, including items valued at \$10 or less; certificates or ceremonial awards valued at less than \$100; and gifts given at major life events. The bill limits to \$100 the value of allowable gifts given at major life events.

Code Enforcement

The bill makes anyone who violates the contractor's code a nonresponsible bidder. It permits the State Ethics Commission to investigate violations and take any appropriate action, including issuing a cease and desist order, imposing a civil fine, referring the matter to the attorney general, or if criminal, to the chief state's attorney. It makes any person who knowingly violates the contractors' code guilty of a class A misdemeanor, punishable by up to one year in prison, a \$2, 000 fine, or both.

PREQUALIFICATION

The law requires contractors, but not subcontractors, to prequalify before bidding on any state or municipal construction contract valued at \$500, 000 or more. To prequalify, they must submit an application, along with a nonrefundable fee, to the Department of Administrative Services (DAS) commissioner. The bill adds new grounds for disqualification, requires new information on prequalification applications, and mandates additional reasons for denying and revoking prequalification certificates.

Disqualification

The law disqualifies from bidding on contracts anyone who receives, from public official information that is not publicly available. The bill expands the grounds for disqualification to include people who receive the prohibited information from state employees. It also specifically prohibits public officials from disclosing the information.

Prequalification Application

The bill requires prequalification applications to include a (1) sworn statement that the contractor and his employees have read the Contractor's Code of Ethics and (2) copy of any affidavit submitted with a bid, as required by sHB 5025, attesting to gifts given to public officials or employees who substantially participated in the contract bid or proposal.

Prequalification Certificates

By law, the DAS commissioner can give any applicant that meets the requirements a one-

year certificate of prequalification that includes the types of work he can perform and the maximum amount of work he is capable of undertaking. The bill allows the commissioner to make the initial certificate effective for up to two years. It requires the contractor receiving this extended certificate to pay the fee for a one-year certificate plus a prorated fee for the period over one year.

It allows the commissioner to send preliminary determinations on prequalification certificates by e-mail, instead of just by regular mail.

The bill prohibits the commissioner from certifying any contractor she:

1. believes should not be prequalified based on the application or any relevant past performance based on procedures and criteria in DAS regulations,
2. finds has violated the Contractor's Code of Ethics during the five years immediately preceding the commissioner's consideration of the application (since the code is new, the prohibition presumably applies only to that part made up of existing provisions in the State Ethics Code), or
3. determines should not be prequalified because to do so would not serve the state's best interests.

The bill permits the commissioner to reconsider her decision regarding the best interests of the state at a later date when the state's interests would not be adversely affected.

Revocation of Prequalification Certificates

The bill requires the commissioner to revoke the prequalification of anyone who has violated the Contractor's Code of Ethics in the five past years. (Since the code is new, the revocation presumably applies only to that part made up of existing provisions in the State Ethics Code.) Anyone whose prequalification is revoked for this reason is banned from applying for prequalification for five years.

CONTRACTOR EVALUATIONS

By law, each public agency, other than UCONN, must complete and submit to DAS an evaluation on each contractor at the conclusion of his state-funded work on a building under the agency's control. The bill, instead, requires the agencies to complete the evaluation while the work is being done and submit it to DAS once the work is completed.

It makes the evaluation information available to all state, but not municipal, agencies. State agencies may use the information to assess a contractor's "responsibility" during the bid selection and evaluation process. A designated agency official must certify that the evaluation information is, to the best of his knowledge, a true and accurate analysis of the contractor's performance on the contract.

The bill protects public agencies and their employees or certifying officials who complete the evaluation from any loss or injury it causes the contractor. The protection does not cover agencies, employees, or certifying officials who complete the evaluation in a willful, wanton, or reckless manner.

Lastly, the bill makes public agencies that fail to complete the evaluation within 70 days after the job is done ineligible for any state funds to build, remodel, repair, or demolish any public building or public works project until the evaluation is completed.

STATUS REPORTS

The bill delays for two years the duty of most awarding authorities to prepare and submit annual status reports. By law, all such authorities, other than UCONN, must report on any (1) ongoing building construction contract estimated to cost more than \$500, 000 that will be paid, in whole or in part, with state funds or (2) DPW-awarded property management contract with an annual value of \$100, 000 or more.

The bill sets the beginning date for the reports at January 1, 2006 rather than January 1, 2004. It requires status reports on school construction projects to be filed with the Department of Education instead of the governor and the Government Administration and Elections and Finance, Revenue and Bonding committees. It requires the department to summarize the reports in a report to the two committees.

The bill permits the DAS commissioner to grant awarding authorities up to two 60-day extensions for submitting the reports.

COMPETITIVE BID CONTRACTS

By law, authorities responsible for awarding most state contracts must do so on the basis of competitive bidding. Once the bids are in, the authority must award the contract to the lowest responsible qualified bidder.

The bill requires agencies that award competitive bid contracts to adopt policies for disclosing information to bidders or potential bidders. These policies must require:

1. pre-bid inquiries about contract specifications to be in writing;
2. the agency to answer each such inquiry in writing and provide a copy of the answer to anyone who has expressed interest in bidding on such contract, unless the information was provided at pre-bid meetings open to all interested parties;
3. the agency to record any information disseminated at pre-bid meetings and make it available to any interested party;
4. the agency to keep a record of communications about the contract, including the date it took place, the name of the person requesting information, the state employee who

provided it, and a general description of it, between its employees and interested parties from the date the bid is advertised to the date it is awarded.

CONTRACT SELECTION PROCESS

The bill increases the information that each member of the Construction Services Award Panel must prepare on the selection process. In addition to how the evaluation criteria were used to determine the most qualified firms, it must indicate how the person ranked each bidder. The ranking is available for public disclosure after the contract is executed.

The bill requires each panel's memorandum and the DPW commissioner's memorandum to also include his certification that his selection process of the most qualified firm was free from collusion, gift giving, compensation, fraud, or other inappropriate influences.

The bill permits the State Ethics Commission to investigate any violations in the awarding process and to take any appropriate action, including issuing a cease and desist order, imposing a civil fine, referring the matter to the attorney general, or if criminal, to the chief state's attorney. It makes any person who knowingly makes a false statement on a certification guilty of a class A misdemeanor; punishable by up to one year in prison, a \$2, 000 fine, or both.

BACKGROUND

Related Bill

sHB 5025, favorably reported by the Government Administration and Elections Committee on March 19, requires bidders on state contracts and leases to submit affidavits attesting to whether they have given gifts to public officials or state employees.

COMMITTEE ACTION

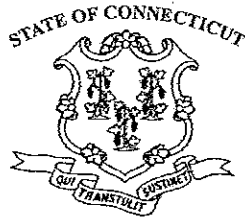
Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 0

TOP

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The total fringe benefit reimbursement rate as a percentage of payroll is 45.82%, effective July 1, 2003. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 20.23% in FY 05. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.



House of Representatives

General Assembly

File No. 34

February Session, 2004

Substitute House Bill No. 5020

House of Representatives, March 11, 2004

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CORRUPT OFFICIALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 3,
2 inclusive, of this act:

3 (1) "Public official" has the same meaning as provided in section 1-
4 79 of the general statutes; and

5 (2) "Crime related to state office" means any of the following
6 criminal offenses committed by a person while serving as a public
7 official:

8 (A) The committing, aiding or abetting of an embezzlement of
9 public funds from the state or a quasi-public agency;

10 (B) The committing, aiding or abetting of any felonious theft from
11 the state or a quasi-public agency;

12 (C) Bribery in connection with service as a public official; or

13 (D) The committing of any felony by such person who, wilfully and
14 with the intent to defraud, realizes or obtains, or attempts to realize or
15 obtain, a profit, gain or advantage for himself or herself or for some
16 other person, through the use or attempted use of the power, rights,
17 privileges or duties of his or her position as a public official.

18 Sec. 2. (NEW) (*Effective from passage*) (a) Notwithstanding any
19 provision of the general statutes, if any person is convicted or pleads
20 guilty or nolo contendere to any crime related to state office, the court,
21 as part of the sentence imposed, may revoke or reduce any retirement
22 or other benefit or payment of any kind to which the person is
23 otherwise entitled under the general statutes for service as a public
24 official.

25 (b) In determining whether the retirement or other benefit or
26 payment shall be revoked or reduced, the court shall consider and
27 make findings on the following factors:

28 (1) The severity of the crime related to state office for which the
29 person has been convicted or to which the person has pled guilty or
30 nolo contendere;

31 (2) The amount of monetary loss suffered by the state or a quasi-
32 public agency or by any other person as a result of the crime related to
33 state office;

34 (3) The degree of public trust reposed in the person by virtue of the
35 person's position as a public official; and

36 (4) Any such other factors as, in the judgment of the court, justice
37 may require.

38 (c) If the court determines that a retirement or other benefit or
39 payment of a person should be revoked or reduced, it may, after
40 taking into consideration the financial needs and resources of any
41 innocent spouse, dependents and designated beneficiaries of the

42 person, order that some or all of the revoked or reduced benefit or
43 payment be paid to any innocent spouse, dependent or beneficiary as
44 justice may require.

45 (d) If the court determines that the retirement or other benefit or
46 payment of a person should not be revoked or reduced, it shall order
47 that the retirement or other benefit or payment be made to the person.

48 Sec. 3. (NEW) (*Effective from passage*) (a) Any person whose
49 retirement or other benefits or payments are revoked pursuant to
50 section 2 of this act shall be entitled to a return of his or her
51 contribution paid into the relevant pension fund, without interest.

52 (b) Notwithstanding the provisions of subsection (a) of this section,
53 no payments in return of contributions shall be made or ordered
54 unless and until the Superior Court determines that the person whose
55 retirement or other benefits or payments have been revoked under
56 section 2 of this act has satisfied in full any judgments or orders
57 rendered by any court of competent jurisdiction for the payment of
58 restitution for losses incurred by any person as a result of the crime
59 related to state office. If the Superior Court determines that the person
60 whose retirement or other benefits or payments have been revoked
61 under section 2 of this act has failed to satisfy any outstanding
62 judgment or order of restitution rendered by any court of competent
63 jurisdiction, it may order that any funds otherwise due to the person as
64 a return of contribution, or any portion thereof, be paid in satisfaction
65 of the judgment or order.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
State Comptroller - Fringe Benefits	GF - Savings	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill provides for the treatment of the fringe benefits of public officials who are convicted of a crime or plead guilty to any crime related to state office. The bill allows the court to revoke or reduce any retirement benefit or payment to which the person is entitled for service as a public official.

The provisions of the bill may result in a savings to the state employee fringe benefits accounts that are administered by the State Comptroller. Any fiscal impact would be dependent upon which fringe benefits and to what degree they are reduced.

Background

AVERAGE ANNUAL MEMBER BENEFIT COSTS

State Funded Pension Systems:

State Employees Retirement System* \$20,248

Governor's Pension \$5,000 per year for each year or fraction of a year served

State Sponsored Health Benefits**:

Retirees Under Age 65 \$10,230

Retirees Age 65 & Over \$6,539

*Based on June 30, 2002 valuation

**FY 04 cost

OLR Bill Analysis

sHB 5020

AN ACT CONCERNING CORRUPT OFFICIALS**SUMMARY:**

This bill permits courts to revoke or reduce any retirement or other benefit or payment due to public officials when sentencing them for certain crimes related to their employment. It specifies the factors courts must consider when making this decision.

If an official's pension is revoked, the bill entitles him to the return of his contribution, without interest. But, the repayment cannot be made until the court determines that the official has made any court-ordered restitution. If the court determines that full restitution has not been made, it may deduct the unpaid amount from the official's pension contributions.

Lastly, the bill requires the court to order payment of any benefit or payment that is not revoked or reduced.

EFFECTIVE DATE: Upon passage

REVOCATION OR REDUCTION OF BENEFITS

The bill allows courts to revoke or reduce the benefits of any public official who is convicted or pleads guilty or *nolo contendere* (no contest) to:

1. committing or aiding or abetting the embezzlement of public funds from the state or a quasi-public agency,
2. committing or aiding or abetting any felonious theft from the state or a quasi-public agency,
3. bribery connected to his role as a public official, or
4. felonies committed willfully and with intent to defraud to obtain or attempt to obtain an advantage for himself or others through the use or attempted use of his office.

"Public officials" are statewide elected officers; legislators and legislators-elect; gubernatorial appointees, including appointees'

appointees; public members and union representatives on the Investment Advisory Council; quasi-public agency members and directors; and people appointed or elected by the General Assembly or any house thereof. The term does not include judges, advisory board members, or members of Congress.

Sentencing Determinations

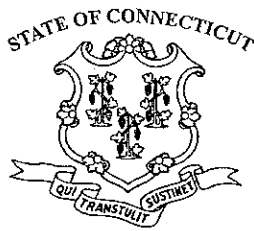
When determining whether to revoke or reduce a public official's benefits or payments, the bill requires the court to consider: (1) the severity of the crime; (2) the amount of money the state, quasi-public agency, or anyone else lost as a result of the crime; (3) the degree of public trust reposed in the person by virtue of his position; and (4) any other factors the court determines that justice requires. The court must consider the needs of an innocent spouse or beneficiary after making its determination and may order that all or part of the benefits be paid to the spouse or beneficiary.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 18 Nay 0



General Assembly

January Session, 2003

Raised Bill No. 906

LCO No. 3013

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING WHISTLEBLOWER COMPLAINTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 4-61dd of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2003*):

4 (b) (1) No state officer or employee, as defined in section 4-141, no
5 quasi-public agency officer or employee, no officer or employee of a
6 large state contractor and no appointing authority shall take or
7 threaten to take (A) any personnel action against any state or quasi-
8 public agency employee or any employee of a large state contractor, or
9 (B) any action concerning a contract between a state agency or large
10 state contractor and a person or a legal entity owned by or which
11 employs a person, in retaliation for such employee's or person's
12 disclosure of information to the Auditors of Public Accounts or the
13 Attorney General under the provisions of subsection (a) of this section.

14 (2) If a state or quasi-public agency employee or an employee of a
15 large state contractor alleges that a personnel action has been
16 threatened or taken in retaliation for such employee's disclosure of

17 information to the Auditors of Public Accounts or the Attorney
 18 General under the provisions of subsection (a) of this section, the
 19 employee may notify the Attorney General, who shall investigate
 20 pursuant to subsection (a) of this section. [After the conclusion of such
 21 investigation, the] The Attorney General, the employee or the
 22 employee's attorney may file a complaint concerning such personnel
 23 action with the Chief Human Rights Referee designated under section
 24 46a-57. The Chief Human Rights Referee shall assign the complaint to
 25 a human rights referee appointed under said section 46a-57, who shall
 26 conduct a hearing and issue a decision concerning whether the officer
 27 or employee taking or threatening to take the personnel action violated
 28 any provision of this section. If the human rights referee finds such a
 29 violation, the referee may award the aggrieved employee
 30 reinstatement to the employee's former position, back pay and
 31 reestablishment of any employee benefits to which the employee
 32 would otherwise have been eligible if such violation had not occurred,
 33 reasonable attorneys' fees, and any other damages. For the purposes of
 34 this subsection, such human rights referee shall act as an independent
 35 hearing officer. The decision of a human rights referee under this
 36 subsection may be appealed by any person who was a party at such
 37 hearing, in accordance with the provisions of section 4-183.

38 (3) The Chief Human Rights Referee shall adopt regulations, in
 39 accordance with the provisions of chapter 54, establishing the
 40 procedure for filing complaints and noticing and conducting hearings
 41 under subdivision (2) of this subsection.

42 (4) As an alternative to the provisions of subdivisions (2) and (3) of
 43 this subsection (A) a state or quasi-public agency employee who
 44 alleges that a personnel action has been threatened or taken may file an
 45 appeal within thirty days of knowledge of the specific incident giving
 46 rise to such claim with the Employees' Review Board under section 5-
 47 202, or, in the case of a state or quasi-public agency employee covered
 48 by a collective bargaining contract, in accordance with the procedure
 49 provided by such contract, or (B) an employee of a large state

50 contractor alleging that such action has been threatened or taken may,
51 after exhausting all available administrative remedies, bring a civil
52 action in accordance with the provisions of subsection (c) of section 31-
53 51m.

54 (5) In any proceeding under subdivision (2), (3) or (4) of this
55 subsection concerning a personnel action taken or threatened against
56 any state or quasi-public agency employee or any employee of a large
57 state contractor, which personnel action occurs within one year after
58 the employee first transmits facts and information concerning a matter
59 under subsection (a) of this section to the Auditors of Public Accounts
60 or the Attorney General, there shall be a rebuttable presumption that
61 the personnel action is in retaliation for the action taken by the
62 employee under subsection (a) of this section.

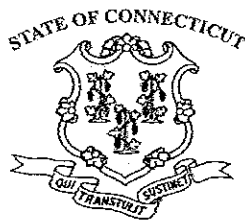
63 (6) If a state officer or employee, as defined in section 4-141, a quasi-
64 public agency officer or employee, an officer or employee of a large
65 state contractor or an appointing authority takes or threatens to take
66 any action concerning a contract between a state agency or large state
67 contractor and a person or a legal entity owned by or which employs a
68 person, in violation of subdivision (1) of this subsection, such person
69 may, not later than ninety days from the date of such violation, bring a
70 civil action in the superior court for the judicial district of Hartford to
71 recover damages, attorney's fees and costs.

This act shall take effect as follows:	
Section 1	October 1, 2003

Statement of Purpose:

To permit the utilization of the whistleblower complaint process in cases where the Attorney General has not yet completed the investigation of the retaliation complaint, to extend retaliation protection to any state contractor or employee of a state contractor that files a whistleblower complaint concerning state funds or operations and to permit such state contractor or employee to recover damages in a civil action.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



Senate

General Assembly

February Session, 2004

*NOT the SB 386
that passed*

File No. 354

Substitute Senate Bill No. 386

Senate, March 31, 2004

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING WHISTLEBLOWER COMPLAINTS AND CIVIL RECOVERY OF MISAPPROPRIATED FUNDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 4-61dd of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective October 1, 2004*):
- 3 (a) Any person having knowledge of any matter involving
- 4 corruption, unethical practices, violation of state laws or regulations,
- 5 mismanagement, gross waste of funds, abuse of authority or danger to
- 6 the public safety occurring in any state department or agency or any
- 7 quasi-public agency, as defined in section 1-120, or any person having
- 8 knowledge of any matter involving corruption, violation of state or
- 9 federal laws or regulations, gross waste of funds, abuse of authority or
- 10 danger to the public safety occurring in any large state contract, may
- 11 transmit all facts and information in [his] such person's possession
- 12 concerning such matter to the Auditors of Public Accounts. The

13 Auditors of Public Accounts shall review such matter and report their
14 findings and any recommendations to the Attorney General. Upon
15 receiving such a report, the Attorney General shall make such
16 investigation as [he] the Attorney General deems proper. Nothing in
17 this section shall be construed to limit such investigation to the
18 allegations or information transmitted pursuant to this section. At the
19 request of the Attorney General or on their own initiative, the auditors
20 shall assist in the investigation. The Attorney General shall have power
21 to summon witnesses, require the production of any necessary books,
22 papers or other documents and administer oaths to witnesses, where
23 necessary, for the purpose of an investigation pursuant to this section
24 or sections 2 to 5, inclusive, of this act. Upon the conclusion of [his] the
25 investigation, the Attorney General shall where necessary, report [his]
26 any findings to the Governor, or in matters involving criminal activity,
27 to the Chief State's Attorney. [The] In addition to the exempt records
28 provision of section 1-210, as amended, the Auditors of Public
29 Accounts and the Attorney General shall not, after receipt of any
30 information from a person under the provisions of this section or
31 sections 2 to 5, inclusive of this act, disclose the identity of such person
32 without [his] such person's consent unless the Auditors of Public
33 Accounts or the Attorney General determine that such disclosure is
34 unavoidable, and may withhold records of such investigation, during
35 the [course] pendency of the investigation.

36 (b) (1) No state officer or employee, as defined in section 4-141, no
37 quasi-public agency officer or employee, no officer or employee of a
38 large state contractor and no appointing authority shall take or
39 threaten to take: (A) [any] Any personnel action against any state or
40 quasi-public agency employee or any employee of a large state
41 contractor, or (B) any action to impede or terminate a contract between
42 a state agency and a large state contractor in retaliation for such
43 employee's or contractor's disclosure of information to an employee of
44 (i) the Auditors of Public Accounts or the Attorney General under the
45 provisions of subsection (a) of this section or sections or sections 2 to 5,
46 inclusive, of this act; (ii) the state agency or quasi-public agency where
47 such state officer or employee is employed; (iii) a state agency

48 pursuant to a mandated reporter statutes; or (iv) in the case of a large
49 state contractor, to an employee of the contracting state agency
50 concerning information involving the large state contract.

51 (2) If a state or quasi-public agency employee or an employee of a
52 large state contractor alleges that a personnel action has been
53 threatened or taken in [retaliation for such employee's disclosure of
54 information to the Auditors of Public Accounts or the Attorney
55 General under the provisions of subsection (a) of this section,]
56 violation of subdivision (1) of this subsection the employee may notify
57 the Attorney General, who shall investigate pursuant to subsection (a)
58 of this section. [After the conclusion of such investigation, the Attorney
59 General, the employee or]

60 (3) (A) Not later than thirty days after learning of the specific
61 incident giving rise to a claim that a personnel action has been
62 threatened or has occurred in violation of subdivision (1) of this
63 subsection, a state or quasi-public agency employee, an employee of a
64 large state contractor or the employee's attorney may file a complaint
65 concerning such personnel action with the Chief Human Rights
66 Referee designated under section 46a-57. The Chief Human Rights
67 Referee shall assign the complaint to a human rights referee appointed
68 under said section 46a-57, who shall conduct a hearing and issue a
69 decision concerning whether the officer or employee taking or
70 threatening to take the personnel action violated any provision of this
71 section. If the human rights referee finds such a violation, the referee
72 may award the aggrieved employee reinstatement to the employee's
73 former position, back pay and reestablishment of any employee
74 benefits to which the employee would otherwise have been eligible if
75 such violation had not occurred, reasonable attorneys' fees, and any
76 other damages. For the purposes of this subsection, such human rights
77 referee shall act as an independent hearing officer. The decision of a
78 human rights referee under this subsection may be appealed by any
79 person who was a party at such hearing, in accordance with the
80 provisions of section 4-183.

81 [(3)] (B) The Chief Human Rights Referee shall adopt regulations, in
82 accordance with the provisions of chapter 54, establishing the
83 procedure for filing complaints and noticing and conducting hearings
84 under [subdivision (2) of this subsection] subparagraph (A) of this
85 subdivision.

86 (4) As an alternative to the provisions of subdivisions (2) and (3) of
87 this subsection (A) a state or quasi-public agency employee who
88 alleges that a personnel action has been threatened or taken may file an
89 appeal within thirty days of knowledge of the specific incident giving
90 rise to such claim with the Employees' Review Board under section 5-
91 202, or, in the case of a state or quasi-public agency employee covered
92 by a collective bargaining contract, in accordance with the procedure
93 provided by such contract, or (B) an employee of a large state
94 contractor alleging that such action has been threatened or taken may,
95 after exhausting all available administrative remedies, bring a civil
96 action in accordance with the provisions of subsection (c) of section 31-
97 51m.

98 (5) In any proceeding under subdivision (2), (3) or (4) of this
99 subsection concerning a personnel action taken or threatened against
100 any state or quasi-public agency employee or any employee of a large
101 state contractor, which personnel action occurs within one year after
102 the employee first transmits facts and information concerning a matter
103 under subsection (a) of this section or sections 2 to 5, inclusive, of this
104 act to the Auditors of Public Accounts or the Attorney General, there
105 shall be a rebuttable presumption that the personnel action is in
106 retaliation for the action taken by the employee under subsection (a) of
107 this section.

108 (6) If a state officer or employee, as defined in section 4-141, a quasi-
109 public agency officer or employee, an officer or employee of a large
110 state contractor or an appointing authority takes or threatens to take
111 any action to impede or cancel a contract between a state agency and a
112 large state contractor, in violation of subdivision (1) of this subsection,
113 such person may, not later than ninety days from the date of such

114 violation, bring a civil action in the superior court for the judicial
115 district of Hartford to recover damages, attorney's fees and costs.

116 (c) Any employee of a state or quasi-public agency or large state
117 contractor, who is found to have knowingly and maliciously made
118 false charges under subsection (a) of this section shall be subject to
119 disciplinary action by [his] such employee's appointing authority up to
120 and including dismissal. In the case of a state or quasi-public agency
121 employee, such action shall be subject to appeal to the Employees'
122 Review Board in accordance with section 5-202, or in the case of state
123 or quasi-public agency employees included in collective bargaining
124 contracts, the procedure provided by such contracts.

125 (d) On or before September first, annually, the Auditors of Public
126 Accounts shall submit to the clerk of each house of the General
127 Assembly a report indicating the number of matters for which facts
128 and information were transmitted to the auditors pursuant to this
129 section during the preceding state fiscal year and the disposition of
130 each such matter.

131 (e) Each contract between a state or quasi-public agency and a large
132 state contractor shall provide that, if an officer, employee or
133 appointing authority of a large state contractor takes or threatens to
134 take any personnel action against any employee of the contractor in
135 retaliation for such employee's disclosure of information to any
136 employee of the contracting state or quasi-public agency or the
137 Auditors of Public Accounts or the Attorney General under the
138 provisions of subsection (a) of this section, the contractor shall be liable
139 for a civil penalty of not more than five thousand dollars for each
140 offense, up to a maximum of twenty per cent of the value of the
141 contract. Each violation shall be a separate and distinct offense and in
142 the case of a continuing violation each calendar day's continuance of
143 the violation shall be deemed to be a separate and distinct offense. The
144 executive head of the state or quasi-public agency may request the
145 Attorney General to bring a civil action in the superior court for the
146 judicial district of Hartford to seek imposition and recovery of such

147 civil penalty.

148 (f) Each large state contractor shall post a notice of the provisions of
149 this section relating to large state contractors in a conspicuous place
150 which is readily available for viewing by the employees of the
151 contractor.

152 (g) No person who, in good faith discloses information to the
153 Auditors of Public Accounts or the Attorney General in accordance
154 with this section shall be liable for any civil damages resulting from
155 such good faith disclosure.

156 (h) As used in this section:

157 (1) "Large state contract" means a contract between an entity and a
158 state or quasi-public agency, having a value of five million dollars or
159 more; [except for a contract for the construction, alteration or repair of
160 any public building or public work;] and

161 (2) "Large state contractor" means an entity that has entered into a
162 large state contract with a state or quasi-public agency.

163 Sec. 2. (NEW) (*Effective October 1, 2004*) For purposes of sections 2 to
164 5, inclusive, of this act:

165 (1) "Claim" means any request or demand for money or property
166 made (A) to a state officer, state employee, state agent or any other
167 representative of the state, or (B) to a contractor, subcontractor, grantee
168 or other person if the state provides any portion of the money or
169 property requested or demanded, or if the state will reimburse directly
170 or indirectly such contractor, subcontractor, grantee or other person for
171 any portion of the money or property requested or demanded;

172 (2) "Knowing" and "knowingly" means a person, with respect to
173 information, does any of the following: (A) Has actual knowledge of
174 the information, (B) acts in deliberate ignorance of the truth or falsity
175 of the information, or (C) acts in reckless disregard of the truth or
176 falsity of the information;

177 (3) "Original source" means an individual who has direct and
178 independent knowledge of information that the individual voluntarily
179 provided to the Attorney General or the Auditors of Public Accounts,
180 without public disclosure, and on which the Attorney General has
181 based an action brought pursuant to section 4 of this act;

182 (4) "Person" means any natural person, corporation, partnership,
183 association, trust or other business or legal entity; and

184 (5) "State" means any state agency in the executive, legislative and
185 judicial branch, including any quasi-public authority as defined in
186 section 1-120 of the general statutes.

187 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) A person defrauds the
188 state when such person:

189 (1) Knowingly presents, or causes to be presented, to any state
190 official or employee a false or fraudulent claim;

191 (2) Knowingly makes, uses or causes to be made or used, a false
192 record or statement to obtain payment or approval of a claim by the
193 state;

194 (3) Conspires to defraud the state through the allowance or payment
195 of a false or fraudulent claim;

196 (4) Pursuant to a certificate or receipt, has possession, custody or
197 control of property or money used, or to be used, by the state and
198 knowingly delivers, or causes to be delivered, to the state less property
199 than the amount indicated on such certificate or receipt with the intent
200 to knowingly conceal the property;

201 (5) Is authorized to make or deliver a document certifying receipt of
202 property used, or to be used, by the state and with the intent to deceive
203 the state, knowingly makes or delivers the receipt without verifying
204 that the information on the receipt is true;

205 (6) Buys, or receives as a pledge of an obligation or debt, public

206 property from an officer or employee of the state knowing that such
207 officer or employee may not lawfully sell or pledge the property;

208 (7) Enters into an agreement, contract or understanding with an
209 official or employee of the state knowing the information contained
210 therein is false;

211 (8) Knowingly makes, uses or causes to be made or used a false
212 record or statement to conceal, avoid or decrease an obligation to pay
213 or transmit money or property to the state; or

214 (9) Is a beneficiary of an inadvertent submission of a false claim to
215 the state and subsequently discovers the falsity of the claim but
216 knowingly fails to disclose the false claim to the state within a
217 reasonable time after discovery of the falsity of the claim.

218 (b) This section shall not be construed to apply to an act that would
219 constitute workers' compensation fraud pursuant to section 31-290c of
220 the general statutes, an act that violates any provision of title 12 of the
221 general statutes or an act where the alleged loss to the state is less than
222 twenty-five thousand dollars.

223 Sec. 4. (NEW) (*Effective October 1, 2004*) (a) Whenever the Attorney
224 General has reason to believe that a person may have defrauded the
225 state, in violation of section 3 of this act, the Attorney General may
226 investigate such act and bring a civil action in the superior court
227 against such person to recover civil penalties and damages as provided
228 in this section and to obtain such equitable relief as the court deems
229 appropriate.

230 (b) Proof that a person acted with the specific intent to defraud the
231 state shall not be required for a finding that such person has defrauded
232 the state pursuant to section 3 of this act. Innocent mistake shall be an
233 affirmative defense to any action brought pursuant to this section. The
234 state shall prove all essential elements of such cause of action,
235 including damages, by a preponderance of the evidence. A
236 corporation, limited liability corporation, partnership or other person

237 shall be liable to the state for the acts of its agent where the agent acted
238 with apparent authority to defraud the state in violation of section 3 of
239 this act.

240 (c) Any person who is found by a court of competent jurisdiction to
241 have defrauded the state shall be liable to the state for (1) three times
242 the amount of damages that the state sustained due to the fraudulent
243 act, (2) a civil penalty of not less than five thousand dollars and not
244 more than ten thousand dollars for each act that constitutes a violation
245 of section 3 of this act, and (3) reasonable attorney's fees and costs.

246 (d) Notwithstanding the provisions of subsection (c) of this section,
247 a court may, within its discretion, reduce an award of damages to the
248 state upon finding any violation of section 3 of this act, provided such
249 award includes an award for the consequential damages the state
250 sustained as a result of the person's violation. The court may, within its
251 discretion, decide not to impose a civil penalty against such person
252 provided the court finds all of the following:

253 (1) The person committing the violation provided the Attorney
254 General with all the information known to such person about the
255 violation not later than thirty days after the date on which the person
256 first obtained the information;

257 (2) The person fully cooperated with any state investigation of such
258 violation; and

259 (3) At the time such person provided the Attorney General with
260 such information, no criminal prosecution, civil action or
261 administrative action had commenced with respect to the defrauding
262 of the state, and the person did not have actual knowledge of the
263 existence of an investigation into the defrauding of the state.

264 Sec. 5. (NEW) (*Effective October 1, 2004*) (a) The superior court shall
265 approve any settlement of an action brought under section 4 of this act.
266 In approving a settlement of, or rendering a judgment in, an action
267 brought under section 4 of this act, the court, upon application by the

268 Attorney General, may award to an original source not more than five
269 per cent of the award of actual damages paid to the state, taking into
270 consideration the significance of the information provided by the
271 original source to the court's finding of a violation of section 3 of this
272 act or the settlement of the action.

273 (b) Notwithstanding the provisions of subsection (a) of this section,
274 an original source is not entitled to receive a portion of any court
275 judgment or settlement if: (1) The action brought pursuant to section 4
276 of this act is based on allegations or transactions that are the subject of
277 another criminal, civil, administrative or legislative proceeding; (2) the
278 information provided by the original source is based on the public
279 disclosure of allegations or transactions in a criminal, civil,
280 administrative or legislative proceeding or hearing or from the news
281 media; (3) the original source is an individual who is or was employed
282 by the state whose scope of employment includes investigating or
283 prosecuting fraud against the state and the information was gathered
284 in the course of such employment; or (4) the original source planned,
285 initiated or knowingly participated in the defrauding of the state.

This act shall take effect as follows:

Section 1	October 1, 2004
Sec. 2	October 1, 2004
Sec. 3	October 1, 2004
Sec. 4	October 1, 2004
Sec. 5	October 1, 2004

GAE Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Attorney General; Auditors	GF - None	None	None
Resources of the General Fund	GF - Revenue Gain	Potential Significant	Potential Significant
Human Rights & Opportunities, Com.	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill permits the Office of the Attorney General (OAG) to expand the scope of its investigations into large public works contracts beyond any specific allegations or information transmitted by a whistleblower. The OAG could accommodate the bill's increased investigatory powers without requiring additional appropriations. The bill establishes civil penalties for defrauding the state which include treble damages, attorney's fees and costs. The likelihood and regularity of future recoveries is uncertain, but could be significant (i.e., greater than \$100,000) in any given year.

The bill authorizes the court to give a portion of actual damages awarded to the person who volunteered information. The number of additional whistleblower matters filed with the state as a result of the bill's provision of an award is unknown, but not expected to be substantial. The Auditors of Public Accounts have received an average of 88 such matters annually over the last four fiscal years. For illustrative purposes, a ten per cent increase would yield eight to nine additional cases.

The bill revises the procedure by which a whistleblower complaint

is brought to the Commission on Human Rights and Opportunities' (CHRO) Chief Human Rights Referee. Currently, the Office of the Attorney General may refer complaints to the Chief Human Rights Referee. Under the bill, a state or quasi-public agency employee, an employee of a large state contractor or the employee's attorney may file directly with the Chief Human Rights Referee. Although it is certain that the bill would result in increased workload, to what extent is unknown. Since the enactment of Public Act 02-91, "An Act Concerning State Employee and Contractor Whistleblowing Complaints," seven complaints have been referred to the Chief Human Rights Referee, two of which have been dismissed. Should the number of complaints rise because of directly filing with the Chief Human Rights Referee, there would be a minimal cost.

OLR Bill Analysis

sSB 386

**AN ACT CONCERNING WHISTLEBLOWER COMPLAINTS AND
CIVIL RECOVERY OF MISAPPROPRIATED FUNDS****SUMMARY:**

This bill gives the attorney general unlimited scope in his investigation of state agency whistleblower complaints. It expands the whistleblower statutes' applicability to include retaliation for certain disclosures to state employees. It also subjects large state contracts for public buildings or public works to the whistleblower provisions. The bill extends contract provisions addressing the contractor's civil liability to retaliations for disclosure to the contracting agency's employees. It bars civil liability for good faith disclosure of information to the attorney general or auditors of public accounts.

The bill establishes civil penalties for defrauding the state, such as presenting false claims for payment or receiving property from state officials and employees knowing the official or employee lacks the authority to sell or pledge the property. It allows the attorney general to investigate the defrauding of the state and bring civil actions against alleged violators. It makes anyone who defrauded the state liable for treble damages, civil penalties, attorney's fees, and costs. The bill also gives the court discretion not to impose penalties for voluntary cooperation with the investigation.

The bill allows the court to give a portion of the actual damages award to someone who volunteered information to the attorney general, enabling him to bring the action. But it prohibits this person from receiving any money if (1) the action is based on allegations or transactions that are the subject of another proceeding, (2) the information he provided is based on public disclosure of those allegations or transactions, (3) the source gained the information in his role as a state employee, or (4) the source knowingly participated in the defrauding of the state.

EFFECTIVE DATE: October 1, 2004

WHISTLEBLOWERS

Attorney General's Authority

The bill gives the attorney general unlimited authority to investigate state agency whistleblower allegations or information he receives from the auditors of public accounts. It allows the auditors or attorney general, in addition to the exempt records provision of the Freedom of Information Act, to withhold the investigation records while the investigation is pending.

Whistleblower Protections

The law prohibits appointing authorities and officers and employees of the state, quasi-public agencies, or large state contractors from taking or threatening to take personnel action against an employee in retaliation for his disclosure of information to the auditors of public accounts or the attorney general. The bill also bars them from taking or threatening to take action to impede or terminate a contract between a state agency and large state contractor in retaliation for the employee's or contractor's disclosure to an employee of (1) the auditors or the attorney general, (2) the agency where the state officer or employee works, (3) a state agency pursuant to a mandated reporter statute; or (4) in the case of a large state contractor, an employee of the contracting state agency concerning information about the large state contract.

Current law defines a large state contract as a contract for at least \$5 million with a state or quasi-public agency, other than a contract to construct, alter, or repair a public building or public work, and a large state contractor as an entity that enters into such a contract. The bill eliminates the public building or public work exception.

Complaints

Current law allows the attorney general, the employee, or the employee's attorney to file a complaint about the personnel action with the chief human rights referee after the investigation concludes. The bill eliminates the attorney general's ability to file a complaint. It requires the employee or his attorney to file the complaint with the referee within 30 days after learning of the specific incident giving rise to a claim that a personnel action has occurred or been threatened.

Civil Actions and Damages

If a state or quasi-public agency officer or employee, a large state contractor officer or employee, or an appointing authority takes or threatens to take action impeding or canceling a contract between a state agency and a large state contractor in violation of the whistleblower statutes, the bill allows the person to bring a civil action in Hartford Superior Court within 90 days of the violation to recover damages, attorney's fees, and costs (see COMMENT).

The law requires contracts between a state or quasi-public agency and a large state contractor to provide for the contractor's civil liability for up to \$5,000 per offense, up to 20% of the contract value, for personnel actions the contractor's officer, employee, or appointing authority takes or threatens to take against its employees in retaliation for the employee's disclosure of information to the auditors of public accounts or the attorney general. The bill extends this monetary penalty to retaliations against the contractor's employees for disclosing information to the contracting state or quasi-public agency's employees.

The bill prohibits anyone from being held liable for civil damages as a result of his good faith disclosure of information to the auditors or the attorney general.

DEFRAUDING THE STATE***Defrauding the State Defined***

The bill describes actions in which a person may engage which qualify as defrauding the state, such as knowingly presenting or paying a false claim or knowingly delivering to the state less property than is owed. It defines "knowing" and "knowingly" to mean a person, with respect to information, (1) has actual knowledge of the information, (2) acts in deliberate ignorance of the information's truth or falsity, or (3) acts in reckless disregard of the information's truth or falsity. It defines a "claim" as any request or demand for money or property made to (1) a state officer, state employee, state agent, or other state representative or (2) to a contractor, subcontractor, grantee, or other person if the state provides any part of the money or property requested or demanded, or if the state will reimburse the person directly or indirectly for any part of the money or property requested or demanded.

The bill specifies that a person defrauds the state when he:

1. knowingly presents, or causes to be presented, a false or fraudulent claim to any state official or employee;
2. knowingly makes, uses, or causes to be made or used, a false record or statement to obtain the state's payment or approval of a claim;
3. conspires to defraud the state through the allowance or payment of a false or fraudulent claim;
4. pursuant to a certificate or receipt, has possession, custody, or control of property or money the state used or will use, and knowingly delivers or causes to be delivered to the state less property than the amount the certificate or receipt indicates with the intent to knowingly conceal the property;
5. is authorized to make or deliver a document certifying receipt of property the state used or will use, and with intent to deceive the state, knowingly makes or delivers the receipt without verifying that the information on it is true;
6. buys, or receives as a pledge of an obligation or debt, public property from a state officer or employee knowing that the officer or employee may not lawfully sell or pledge the property;
7. enters into an agreement, contract, or understanding with a state official or employee knowing the information contained in it is false;
8. knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state; or
9. is a beneficiary of an inadvertent submission to the state of a false claim and later discovers the claim's falsity but knowingly fails to disclose the false claim to the state within a reasonable time after discovering the falsity.

The bill specifies that these provisions do not apply to acts constituting workers compensation fraud, violating Connecticut tax laws, or where

the alleged loss to the state is less than \$25,000.

Civil Actions for Defrauding the State

Whenever the attorney general believes that a person may have defrauded the state, the bill allows him to investigate the act and bring an action against the person in Superior Court to recover civil penalties and damages and obtain any equitable relief the court deems appropriate. The bill does not require proof that a person acted with the specific intent to defraud the state in order to find that he defrauded the state. But it does allow "innocent mistake" as an affirmative defense to such a charge. It requires the state to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence. It makes a corporation, limited liability corporation, partnership, or other person liable to the state for its agent's acts where the agent acted with apparent authority to defraud the state.

Judgments and Settlements

If the court finds that anyone defrauded the state, the bill makes that person liable to the state for (1) three times the amount of damages that state sustained due to his fraudulent act, (2) a \$5,000 to \$10,000 civil penalty for each violation, and (3) reasonable attorney's fees and costs.

The bill allows the court to use its discretion to reduce a damage award as long as the judgment includes an award for consequential damages the state sustained from the person's violation. It also allows the court to use its discretion not to impose a civil penalty against the person if the court finds all of the following:

1. the person committing the violation provided the attorney general with all the information he knew about the violation within 30 days after the person obtained the information;
2. the person fully cooperated with any state investigation of the violation; and
3. at the time the person provided the attorney general with the information, no criminal prosecution, civil action, or administrative action about the defrauding of the state had commenced, and the person did not have actual knowledge that an investigation into the

defrauding existed.

The bill requires the Superior Court to approve any settlement of an action for defrauding the state. In approving a settlement or rendering a judgment for defrauding the state, the bill allows the court, on the attorney general's application, to give up to 5% of the actual damages awarded to an original source, taking into consideration the significance of the information the original source provided to the court's finding of a violation or the settlement. It defines an "original source" as an individual with direct and independent knowledge of information that he voluntarily provided to the attorney general or auditors of public accounts, without public disclosure, and on which the attorney general based a civil action for defrauding the state.

The bill prohibits an original source from receiving any of the court judgment or settlement if (1) the civil action is based on allegations or transactions that are the subject of another criminal, civil, administrative, or legislative proceeding; (2) the information the original source provided is based on public disclosure of allegations or transactions in a criminal, civil, administrative, or legislative proceeding or hearing or from the news media; (3) the original source is or was a state employee whose job includes investigating or prosecuting fraud against the state and he gathered the information in the course of his employment; or (4) the original source planned, initiated, or knowingly participated in the defrauding of the state.

COMMENT

Civil Action for Contract Impediment or Cancellation

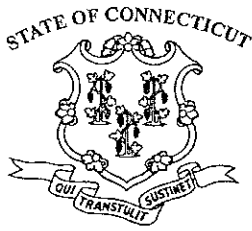
The bill inadvertently fails to identify the party entitled to bring a civil action when someone takes or threatens to take action to impede or cancel a state contract.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 11 Nay 6



Not the
version that passed.

19. 38

General Assembly

Substitute Bill No. 5433

February Session, 2004



**AN ACT REVISING PREQUALIFICATION REQUIREMENTS FOR
STATE CONSTRUCTION CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 4b-91 of the general statutes, as amended by
2 section 1 of public act 03-215, is repealed and the following is
3 substituted in lieu thereof (Effective October 1, 2004):

4 (a) Every contract for the construction, reconstruction, alteration,
5 remodeling, repair or demolition of any public building for work by
6 the state, which is estimated to cost more than five hundred thousand
7 dollars, except (1) a contract awarded by the Commissioner of Public
8 Works for (A) a community court project, as defined in subsection (j) of
9 section 4b-55, (B) the Connecticut Juvenile Training School project, as
10 defined in subsection (k) of section 4b-55, (C) the downtown Hartford
11 higher education center project, as defined in subsection (l) of section
12 4b-55, (D) The University of Connecticut library project, as defined in
13 subsection (d) of section 4b-55, (E) a correctional facility project, as
14 defined in subsection (m) of section 4b-55, (F) a juvenile detention
15 center project, as defined in subsection (n) of section 4b-55, or (G) a
16 student residential facility for the Connecticut State University system
17 that is a priority higher education facility project, as defined in
18 subsection (f) of section 4b-55, or (2) a project, as defined in
19 subdivision (16) of section 10a-109c, undertaken and controlled by The

University of Connecticut in accordance with section 10a-109n, shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant to section 3 of [this act] public act 03-215, as amended by this act on the basis of competitive bids in accordance with the procedures set forth in this chapter, [and section 8 of this act,] after the Commissioner of Public Works or, in the case of a contract for the construction of or work on a building under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, the joint committee or, in the case of a contract for the construction of or work on a building under the supervision and control of one of the constituent units of the state system of higher education, the constituent unit, has invited such bids by advertisements inserted at least once in one or more newspapers having a circulation in each county in the state. The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall indicate the prequalification classification and aggregate work capacity rating required for the contract in such advertisement. As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of Administrative Services pursuant to section 3 of [this act] public act 03-215, as amended by this act and "aggregate work capacity rating" means the aggregate work capacity ratings established by the Commissioner of Administrative Services pursuant to section 3 of [this act] public act 03-215, as amended by this act.

(b) The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of sections 4b-91 to 4b-96, inclusive, as amended. Such award shall be made within sixty days after the opening of such bids. If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to

54 the amount specified in the general bid form, an award shall be made
55 to the next lowest responsible and qualified general bidder. No
56 employee of the Department of Public Works, the joint committee or a
57 constituent unit with decision-making authority concerning the award
58 of a contract and no public official may communicate with any bidder
59 prior to the award of the contract if the communication results in the
60 bidder receiving information about the contract that is not available to
61 other bidders, except that if the lowest responsible and qualified
62 bidder's price submitted is in excess of funds available to make an
63 award, the Commissioner of Public Works, the Joint Committee on
64 Legislative Management or the constituent unit, as the case may be,
65 may negotiate with such bidder and award the contract on the basis of
66 the funds available, without change in the contract specifications,
67 plans and other requirements. If the award of a contract on said basis
68 is refused by such bidder, the Commissioner of Public Works, the Joint
69 Committee on Legislative Management or the constituent unit, as the
70 case may be, may negotiate with other contractors who submitted bids
71 in ascending order of bid prices without change in the contract,
72 specifications, plans and other requirements. In the event of
73 negotiation with general bidders as provided in this section, the
74 general bidder involved may negotiate with subcontractors on the
75 same basis, provided such general bidder shall negotiate only with
76 subcontractors named on such general bidder's general bid form.

77 (c) On and after October 1, 2004, no person may bid on a contract,
78 except for a project described in subdivision (2) of subsection (a) of this
79 section, for the construction, reconstruction, alteration, remodeling,
80 repair or demolition of any public building for work by the state or a
81 municipality, which is estimated to cost more than five hundred
82 thousand dollars and is paid for, in whole or in part, with state funds,
83 unless the person is prequalified in accordance with section 3 of [this
84 act] public act 03-215, as amended by this act.

85 (d) On and after October 1, 2004, each bid submitted for a contract
86 described in subsection (c) of this section shall include a copy of a

87 prequalification statement issued by the Commissioner of
88 Administrative Services showing that the bidder has the
89 prequalification classification and aggregate work capacity ratings
90 required under such contract. The bid shall also be accompanied by an
91 update statement in such form as the Commissioner of Administrative
92 Services prescribes. The form for such update statement shall provide
93 space for information regarding all projects completed by the bidder
94 since the date the bidder's prequalification certificate was issued or
95 renewed, all projects the bidder currently has under contract,
96 including the percentage of work on such projects not completed, the
97 names and qualifications of the personnel who will have supervisory
98 responsibility for the performance of the contract, any significant
99 changes in the bidder's financial position or [business organization]
100 corporate structure since the date the certificate was issued or
101 renewed, and such other relevant information as the Commissioner of
102 Administrative Services prescribes. Any bid submitted without a copy
103 of the prequalification certificate and an update statement shall be
104 invalid.

105 (e) Any person who bids on a contract described in subsection (c) of
106 this section shall certify under penalty of false statement at the
107 conclusion of the bidding process that the information in the bid is
108 true, that there has been no substantial change in the bidder's financial
109 position or corporate structure since the bidder's most recent
110 prequalification certificate was issued or renewed, other than those
111 changes noted in the update statement, and that the bid was made
112 without fraud or collusion with any person.

113 (f) Any person who receives information from a state employee or
114 public official that is not available to the general public concerning any
115 construction, reconstruction, alteration, remodeling, repair or
116 demolition project on a public building prior to the date that an
117 advertisement for bids on the project is published shall be disqualified
118 from bidding on the project.

119 (g) Notwithstanding the provisions of this chapter regarding

120 competitive bidding procedures, the commissioner may select and
121 interview at least three responsible and qualified general contractors
122 who are prequalified pursuant to section 3 of [this act] public act 03-
123 215, as amended by this act, and selected by the award panel
124 established in [subdivision (4) of section 4b-24] section 8 of public act
125 03-215, as amended by this act. The commissioner may negotiate with
126 any one of such contractors a contract which is both fair and
127 reasonable to the state for a community court project, as defined in
128 subsection (j) of section 4b-55, the downtown Hartford higher
129 education center project, as defined in subsection (l) of section 4b-55,
130 The University of Connecticut library project, as defined in subsection
131 (d) of section 4b-55, the Connecticut Juvenile Training School project,
132 as defined in subsection (k) of section 4b-55, a correctional facility
133 project, as defined in subsection (m) of section 4b-55, a juvenile
134 detention center project, as defined in subsection (n) of section 4b-55,
135 or a student residential facility for the Connecticut State University
136 system that is a priority higher education facility project, as defined in
137 subsection (f) of section 4b-55. Any general contractor awarded a
138 contract pursuant to this subsection shall be subject to the same
139 requirements concerning the furnishing of bonds as a contractor
140 awarded a contract pursuant to subsection (b) of this section.

141 (h) On and after October 1, 2004, any agency that seeks to have a
142 project awarded without being subject to competitive bidding
143 procedures shall certify to the joint committee of the General Assembly
144 having cognizance of matters relating to legislative management that
145 the project is of such an emergency nature that an exception to
146 competitive bidding procedures is required. Such certification shall
147 include input from all affected agencies, detail the need for the
148 exception and include any relevant documentation.

149 (i) In the event that a specific project is authorized by the General
150 Assembly to be awarded without competitive bidding, the
151 commissioner may select at least three responsible and qualified
152 general contractors who are prequalified pursuant to section 3 of

153 public act 03-215, as amended by this act, and submit the three selected
 154 contractors to the construction services award panels process
 155 described in section 8 of public act 03-215, as amended by this act, and
 156 any regulation adopted by the commissioner.

157 Sec. 2. Section 3 of public act 03-215 is repealed and the following is
 158 substituted in lieu thereof (*Effective October 1, 2004*):

159 (a) As used in this section: (1) "Prequalification" means
 160 prequalification issued by the Commissioner of Administrative
 161 Services to bid on a contract for the construction, reconstruction,
 162 alteration, remodeling, repair or demolition of any public building for
 163 work by the state or a municipality; (2) "subcontractor" means a person
 164 who performs work with a value in excess of twenty-five thousand
 165 dollars for a contractor pursuant to a contract for work for the state or
 166 a municipality which is estimated to cost more than five hundred
 167 thousand dollars; and (3) "principals and key personnel" includes
 168 officers, directors, shareholders, members, partners and managerial
 169 employees.

170 (b) (1) Any person may apply for prequalification to the Department
 171 of Administrative Services. Such application shall be made on such
 172 form as the Commissioner of Administrative Services prescribes and
 173 shall be accompanied by a nonrefundable application fee as set forth in
 174 subdivision (2) of this subsection. The application shall be signed
 175 under penalty of false statement.

176 (2) The application fee shall be as follows:

T1	Aggregate Work Capacity Rating	Fee
T2	\$5,000,000.00 or less	\$600.00
T3	\$5,000,000.01 - \$8,000,000.00	\$750.00

T4	\$8,000,000.01 - \$10,000,000.00	\$850.00
T5	\$10,000,000.01 - \$15,000,000.00	\$1,000.00
T6	\$15,000,000.01 - \$20,000,000.00	\$1,500.00
T7	\$20,000,000.01 - \$40,000,000.00	\$2,000.00
T8	\$40,000,000.01 or more	\$2,500.00

177 (c) The application form shall, at a minimum, require the applicant
 178 to supply information concerning:

179 (1) The applicant's form of organization;

180 (2) The applicant's principals and key personnel and any names
 181 under which the applicant, principals or key personnel conducted
 182 business during the past five years;

183 (3) The applicant's experience on public and private construction
 184 projects over the past five years, or on the applicant's ten most
 185 recently-completed projects and the names of any subcontractors used
 186 on the projects;

187 (4) Any legal or administrative proceedings pending or concluded
 188 adversely against the applicant or any of the applicant's principals or
 189 key personnel within the past five years which relate to the
 190 procurement or performance of any public or private construction
 191 contract and whether the applicant is aware of any investigation
 192 pending against the applicant or any principal or key personnel;

193 (5) The nature of any financial, personal or familial relationship
 194 between the applicant and any public or private construction project
 195 owner listed on the application as constituting construction experience;

196 (6) A statement of whether (A) the applicant has been disqualified

197 pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B)
198 the applicant is on the list distributed by the Labor Commissioner
199 pursuant to section 31-57a, (C) the applicant is disqualified or
200 prohibited from being awarded a contract pursuant to section 31-57b,
201 (D) the applicant has been disqualified by another state, (E) the
202 applicant has been disqualified by a federal agency or pursuant to
203 federal law, (F) the applicant's registration has been suspended or
204 revoked by the Department of Agriculture and Consumer Protection
205 pursuant to section 20-341gg, as amended, (G) the applicant has been
206 disqualified by a municipality, and (H) the matters that gave rise to
207 any such disqualification, suspension or revocation have been
208 eliminated or remedied; and

209 (7) Other information as the commissioner deems relevant to the
210 determination of the applicant's qualifications and responsibilities.

211 (d) The applicant shall include a statement of financial condition
212 prepared by a certified public accountant which includes information
213 concerning the applicant's assets and liabilities, plant and equipment,
214 bank and credit references, bonding company and maximum bonding
215 capacity, and other information as the commissioner deems relevant to
216 an evaluation of the applicant's financial capacity and responsibility.

217 (e) The application shall include a sworn statement that the
218 principal and all employees with significant responsibility have read
219 the contractor's code of ethics contained in sections 5 to 7, inclusive, of
220 this act. Additionally, such application shall include a copy of any
221 affidavit required by the provisions of section 4 of house bill 5025 of
222 the current session.

223 [(e)] (f) Information contained in the application shall be current as
224 of the time of filing except that the statement of financial condition
225 shall pertain to the applicant's most recently-completed fiscal year.

226 [(f)] (g) The commissioner shall determine whether to prequalify an
227 applicant on the basis of the application and on relevant past

228 performance according to procedures and criteria set forth in
229 regulations which the commissioner shall adopt, in accordance with
230 chapter 54. Such criteria shall include, at a minimum, the record of the
231 applicant's performance, including, but not limited to, written
232 evaluations of the applicant's performance on public or private projects
233 within the past five years, the applicant's past experience on projects of
234 various size and type, the skill, ability and integrity of the applicant
235 and any subcontractors used by the applicant, the experience and
236 qualifications of supervisory personnel employed by the applicant, the
237 maximum amount of work the applicant is capable of undertaking as
238 demonstrated by the applicant's financial condition, bonding capacity,
239 size of past projects and present and anticipated work commitments,
240 and any other relevant criteria that the commissioner prescribes. Such
241 regulations shall also (1) provide that the criteria considered shall be
242 assigned separate designated numerical values and weights and that
243 the applicant shall be assigned an overall numerical rating on the basis
244 of all criteria, and (2) establish prequalification classifications and
245 aggregate work capacity ratings. Such prequalification classifications
246 shall be used to establish the types of work a contractor is qualified to
247 perform and the aggregate work capacity ratings shall be used to
248 establish the maximum amount of work a contractor is capable of
249 undertaking.

250 ~~[(g)]~~ (h) (1) The applicant shall indicate the prequalification
251 classifications and aggregate work capacity rating that are sought. The
252 commissioner may issue a certificate of prequalification to any
253 applicant who meets the requirements of this section. Such certificate
254 shall be effective for one year from the date issued and shall indicate
255 the contractor's prequalification classifications and aggregate work
256 capacity ratings. The commissioner may cause the initial certificate of
257 prequalification to be effective for a period not to exceed two years and
258 may require the applicant to remit payment of the application fee, as
259 set forth in subsection (b) of this section, for the first twelve months of
260 certification as well as a prorated application fee, as described in
261 subdivision (3) of this subsection, for any additional period of

262 certification beyond the first twelve months.

263 (2) A prequalified contractor may apply at any time for additional
264 prequalification classifications or aggregate work capacity ratings by
265 submitting the applicable increase in fee, a completed update
266 statement, and other information the commissioner requires.

267 (3) The commissioner may renew a prequalification certificate upon
268 receipt of a completed update statement, any other material the
269 commissioner requires and a nonrefundable fee in an amount equal to
270 one-half of the application fee for the applicable aggregate work
271 capacity rating as set forth in subsection (b) of this section, except that
272 in no event shall such fee be less than six hundred dollars.

273 ~~[(h)]~~ (i) Not later than sixty days after receiving a completed
274 application, the commissioner shall mail or send by electronic mail a
275 notice to the applicant concerning the commissioner's preliminary
276 determination regarding the conditions of the prequalification
277 certification, a denial of certification, a reduction in the level of
278 certification sought or nonrenewal of certification. Any applicant
279 aggrieved by the commissioner's preliminary determination may
280 request copies of the information upon which the commissioner relied
281 in making the preliminary determination, provided such request is
282 made not later than ten days after the date the notice was mailed [as
283 indicated by the postmark on the envelope] or sent by electronic mail
284 to the applicant. Not later than twenty days after [said postmark date]
285 the date the notice was mailed or sent by electronic mail, the applicant
286 may submit additional information to the commissioner with a request
287 for reconsideration. The commissioner shall issue a final determination
288 regarding the application not later than ninety days after the date the
289 commissioner mailed or sent by electronic mail the notice of the
290 preliminary determination, which ninety-day period may be extended
291 for an additional period not to exceed ninety days if (1) the
292 commissioner gives written notice to the applicant that the
293 commissioner requires additional time, and (2) such notice is mailed or
294 sent by electronic mail during the initial ninety-day period.

295 [(i)] (j) The commissioner may not issue a prequalification certificate
296 to any contractor (1) who is disqualified pursuant to section 31-57c or
297 31-57d, [or] (2) who has a principal or key personnel who, within the
298 past five years, has a conviction or has entered a plea of guilty or nolo
299 contendere for or has admitted to commission of an act or omission
300 that reasonably could have resulted in disqualification pursuant to any
301 provision of subdivisions (1) to (3), inclusive, of subsection (d) of
302 section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of
303 section 31-57d, as determined by the commissioner, (3) who the
304 commissioner deems should not be prequalified based on the
305 application for prequalification or any relevant past performance as
306 measured by the procedures and criteria described in regulations
307 adopted by the commissioner pursuant to subsection (g) of this
308 section, (4) who is found to have violated any provision of sections 5 to
309 7, inclusive, of this act during the five-year period prior to the
310 commissioner's consideration of such prequalification application, or
311 (5) who the commissioner determines should not be prequalified based
312 on a determination by the commissioner that such prequalification
313 would not serve the best interests of the state. Nothing in this
314 subsection shall be construed to prohibit the commissioner from
315 issuing a prequalification certificate to a contractor described in
316 subdivision (5) of this subsection, if, at a later point in time, the
317 commissioner determines that such prequalification would not
318 adversely affect the best interests of the state.

319 [(j)] (k) The commissioner may revoke a contractor's prequalification
320 or reduce the contractor's prequalification classification or aggregate
321 work capacity ratings, after an opportunity for a hearing, if the
322 commissioner receives additional information that supports such
323 revocation or reduction.

324 [(k)] (l) (1) Any materially false statement in the application or any
325 update statement may, in the discretion of the awarding authority,
326 result in termination of any contract awarded the applicant by the
327 awarding authority. The awarding authority shall provide written

328 notice to the commissioner of such false statement not later than thirty
329 days after discovering such false statement. The commissioner shall
330 provide written notice of such false statement to the Commissioner of
331 Public Works and the Commissioner of Agriculture and Consumer
332 Protection not later than thirty days after discovering such false
333 statement or receiving such notice.

334 (2) The commissioner shall revoke the prequalification of any
335 person, after an opportunity for hearing, if the commissioner finds that
336 the person has included any materially false statement in such
337 application or update statement, has been convicted of a crime related
338 to the procurement or performance of any public or private
339 construction contract or within the past five years has violated any
340 provision of chapter 10 or any provision of sections 5 to 7, inclusive, of
341 this act or has otherwise engaged in fraud in obtaining or maintaining
342 prequalification. Any person whose prequalification has been revoked
343 pursuant to this subsection shall be disqualified for a period of two
344 years after which the person may reapply for prequalification, except
345 that a person whose prequalification has been revoked on the basis of
346 conviction of a crime or having violated any provision of chapter 10 or
347 any provision of sections 5 to 7, inclusive, of this act or engaging in
348 fraud shall be disqualified for a period of five years after which the
349 person may reapply for prequalification. The commissioner shall not
350 prequalify a person whose prequalification has been revoked pursuant
351 to this subdivision until the expiration of said two or five-year
352 disqualification period and the commissioner is satisfied that the
353 matters that gave rise to the revocation have been eliminated or
354 remedied.

355 [(l)] (m) The commissioner shall provide written notice of any
356 revocation, disqualification, reduction in classification or capacity
357 rating or reinstated prequalification to the Commissioner of Public
358 Works and the Commissioner of Agriculture and Consumer Protection
359 not later than thirty days after any final determination.

360 [(m)] (n) The provisions of this section and section 4 of [this act]

361 public act 03-215, as amended by this act, shall not apply to
362 subcontractors.

363 [(n)] (o) The commissioner shall establish an update statement for
364 use by bidders for purposes of renewing or upgrading a
365 prequalification certificate and for purposes of submitting a bid
366 pursuant to section 4b-91, as amended by this act.

367 [(o)] (p) Any applicant aggrieved by the commissioner's final
368 determination concerning a preliminary determination, a denial of
369 certification, a reduction in prequalification classification or aggregate
370 work capacity rating or a revocation or nonrenewal of certification
371 may appeal to the Superior Court in accordance with section 4-183.

372 Sec. 3. Section 4 of public act 03-215 is repealed and the following is
373 substituted in lieu thereof (*Effective October 1, 2004*):

374 (a) The Commissioner of Administrative Services shall adopt
375 regulations, in accordance with chapter 54, to establish a standard
376 contractor evaluation form. Such form shall include, at a minimum, the
377 following evaluation criteria: (1) Timeliness of performance; (2) quality
378 of performance; (3) cost containment, including, but not limited to, the
379 contractor's ability to work within the contract's allotted cost, the
380 accuracy of the contractor's billing, and the number and cause of
381 change orders and the manner in which the contractor determined the
382 price on the change orders; (4) safety; (5) the quality of the contractor's
383 working relationship with the agency and the quality of the
384 contractor's supervision of the work area; (6) communication with the
385 agency; (7) the quality of the contractor's required documentation; (8)
386 the performance of the contractor's subcontractors, to the extent
387 known by the official who completes the evaluation; and (9) the
388 contractor's and any subcontractor's compliance with part III of
389 chapter 557, or chapter 558, or the provisions of the federal Davis-
390 Bacon Act, 40 USC, Sections 276a to 276a-5, inclusive, as from time to
391 time amended, to the extent known by the official who completes the
392 evaluation.

393 (b) Each public agency shall compile evaluation information during
394 the performance of the contract and complete and submit the
395 evaluation form to the commissioner after completion of a building
396 project under the agency's control if the building project is funded, in
397 whole or in part, by state funds. Such evaluation information shall be
398 available to any state agency for purposes of assessing the
399 responsibility of the contractor during a bid selection and evaluation
400 process. The designated official from such agency shall certify that the
401 information contained in the evaluation form represents, to the best of
402 the certifying official's knowledge, a true and accurate analysis of the
403 contractor's performance record on the contract. The commissioner
404 shall include the evaluation in the contractor's prequalification file. The
405 official shall mail a copy of the completed evaluation form to the
406 contractor. Any contractor who wishes to contest any information
407 contained in the evaluation form may submit a written response to the
408 commissioner not later than thirty days after the date the form was
409 mailed as indicated by the postmark on the envelope. Such response
410 shall set forth any additional information concerning the building
411 project or the oversight of the contract by the public agency that may
412 be relevant in the evaluation of the contractor's performance on the
413 project. The commissioner shall include any such response in the
414 contractor's prequalification file.

415 (c) As used in this section, "public agency" means a public agency,
416 as defined in section 1-200, but does not include The University of
417 Connecticut with respect to any project, as defined in subdivision (16)
418 of section 10a-109c, that is undertaken and controlled by the
419 university, and "subcontractor" means a person who performs work
420 with a value in excess of twenty-five thousand dollars for a contractor
421 pursuant to a contract for work for the state or a municipality which is
422 estimated to cost more than five hundred thousand dollars.

423 (d) Upon fifty per cent completion of any building project under a
424 public agency's control, the agency shall advise the contractor in
425 writing of the agency's preliminary evaluation of the contractor's

426 performance on the project.

427 (e) No public agency, employee of a public agency or certifying
428 official of a public agency shall be held liable to any contractor for any
429 loss or injury sustained by such contractor as the result of the
430 completion of an evaluation form, as required by this section, unless
431 such agency, employee or official is found by a court of competent
432 jurisdiction to have acted in a wilful, wanton or reckless manner.

433 (f) Any public agency that fails to submit a completed evaluation
434 form, as required by this section, not later than seventy days after the
435 completion of a project, shall be ineligible for the receipt of any public
436 funds disbursed by the state for the purposes of the construction,
437 reconstruction, alteration, remodeling, repair or demolition of any
438 public building or any public works project until such completed
439 evaluation form is submitted.

440 Sec. 4. Section 6 of public act 03-215 is repealed and the following is
441 substituted in lieu thereof (*Effective October 1, 2004*):

442 (a) Not later than January 1, [2004] 2006, and annually thereafter,
443 each awarding authority shall prepare a report on the status of (1) any
444 ongoing project for the construction, reconstruction, alteration,
445 remodeling, repair or demolition of any public building which is
446 estimated to cost more than five hundred thousand dollars and is paid
447 for, in whole or in part, with state funds, or (2) any property
448 management contract awarded by the Department of Public Works
449 which has an annual value of one hundred thousand dollars or more.
450 [The] Except for a school construction project, the awarding authority
451 shall submit the report to the Governor and the joint standing
452 committees of the General Assembly having cognizance of matters
453 relating to government administration and finance, revenue and
454 bonding. In any instance in which a municipality is the awarding
455 authority for a school construction project, such municipality shall
456 submit the report required by this section to the Department of
457 Education who shall compile and analyze such reports in a summary

458 submitted to the joint standing committees of the General Assembly
459 having cognizance of matters relating to government administration
460 and finance, revenue and bonding. The report shall be submitted in
461 accordance with section 11-4a. The first report submitted after a
462 contract is awarded shall indicate: (A) When, where and how the
463 request for bids was advertised; (B) who bid on the projects; (C) the
464 provisions of law that governed the award of the contract and if there
465 were any deviations from standard procedure in awarding the
466 contract; (D) the names of the individuals who had decision-making
467 authority in awarding the contract, including, but not limited to, the
468 individuals who served on any award panel; (E) if an award panel was
469 used, whether the recommendation of the panel was followed and, if
470 applicable, the reason why such recommendation was not followed;
471 (F) whether the awarding authority has any other contracts with the
472 contractor who was awarded the contract, and if so, the nature and
473 value of the contract; and (G) any provisions of law that authorized or
474 funded the project.

475 (b) The University of Connecticut shall not be required to submit a
476 report pursuant to this section for any project, as defined in
477 subdivision (16) of section 10a-109c, that is undertaken and controlled
478 by the university.

479 (c) The Commissioner of Administrative Services may, within said
480 commissioner's discretion, grant no more than two sixty-day
481 extensions to any awarding authority for the submission of the report
482 described in this section.

483 Sec. 5. (NEW) (*Effective October 1, 2004*) As used in sections 5, 6 and 8
484 of this act:

485 (1) "Large state construction or procurement contract" means any
486 contract, having a cost of more than five hundred thousand dollars, for
487 (A) the remodeling, alteration, repair or enlargement of any real asset,
488 (B) the construction, alteration, reconstruction, improvement,
489 relocation, widening or changing of the grade of a section of a state

490 highway or a bridge, (C) the purchase or lease of supplies, materials,
491 or equipment, as defined in section 4a-50 of the general statutes, or (D)
492 the construction, reconstruction, alteration, remodeling, repair or
493 demolition of any public building.

494 (2) "Gift" has the same meaning as provided in subsection (e) of
495 section 1-79 of the general statutes, except that "gift" shall also include
496 any gift of more than one hundred dollars provided by an individual
497 for the celebration of a major life event.

498 (3) "Person" has the same meaning as provided in section 1-1 of the
499 general statutes.

500 (4) "Immediate family" has the same meaning as provided in section
501 1-79 of the general statutes.

502 (5) "Business with which the official or employee is associated" has
503 the same meaning as "business with which he is associated" as defined
504 in of section 1-79 of the general statutes.

505 Sec. 6. (NEW) (*Effective October 1, 2004*) (a) Notwithstanding any
506 provision of the general statutes, no person who is, or is seeking to be
507 prequalified under section 3 of public act 03-215, as amended by this
508 act, shall:

509 (1) Knowingly give or promise to give, directly or indirectly, any
510 gift or gifts, or offer employment, to any state official or employee;

511 (2) With the intent to obtain a competitive advantage over other
512 bidders, solicit any information from a state official or employee that
513 the contractor knows is not and will not be available to other bidders
514 for a large state construction or procurement contract that the
515 contractor is seeking;

516 (3) Intentionally, wilfully or with reckless disregard for the truth,
517 charge the state for work not performed or goods not provided,
518 including submitting change orders in bad faith with the sole intention

519 of increasing the contract price, falsifying invoices or bills, charging
520 unconscionable rates for services to the state or charging
521 unconscionable prices for goods to the state; or

522 (4) Intentionally or wilfully violate or attempt to circumvent state
523 competitive bidding and ethics laws.

524 (b) No person with whom the state has contracted to provide
525 consulting services to plan or develop specifications for any contract
526 subject to the provisions of section 4b-91 of the general statutes, as
527 amended, and no business with which such person is associated may
528 serve as a contractor for such contract or as a subcontractor or
529 consultant to the person who was awarded such contract.

530 (c) Any person who violates any provision of this section may be
531 deemed a nonresponsible bidder by a state agency.

532 (d) The State Ethics Commission may investigate any violations of
533 this section and may refer such violations to the Attorney General.
534 Upon a finding of a violation, the State Ethics Commission may take
535 any appropriate action pursuant to section 1-88 and 1-89 of the general
536 statutes in the same manner as for a violation of the Code of Ethics of
537 Public Officials.

538 (e) Any person who knowingly violates any provision of this section
539 shall be guilty of a class A misdemeanor.

540 Sec. 7. (NEW) (*Effective October 1, 2004*) (a) The State Ethics
541 Commission shall develop a summary of state ethics laws concerning
542 state contractors, including, but not limited to, provisions contained in
543 chapter 10 of the general statutes and section 6 of this act, which shall
544 constitute and be known as "The Connecticut State Contractor's Code
545 of Ethics".

546 Sec. 8. (NEW) (*Effective October 1, 2004*) The Departments of
547 Administrative Services, Public Works, Transportation and
548 Information Technology, The University of Connecticut and the

549 Connecticut State University shall adopt regulations, in accordance
550 with the provisions of chapter 54 of the general statutes, establishing
551 objective criteria for the award of state construction and procurement
552 contracts. Each said agency or institution shall post such criteria on its
553 website and publicize the criteria in any other manner that ensures
554 that prospective bidders for such contracts are aware of the criteria.

555 Sec. 9. (NEW) (*Effective October 1, 2004*) (a) As used in this section:

556 (1) "State agency" means an executive office, department, division,
557 board, commission or other office in the executive, legislative or
558 judicial branch of state government; and

559 (2) "Competitive bid contract" means any contract awarded by a
560 state agency pursuant to a lowest responsible bid or competitive
561 selection process or construction services awards panels under section
562 8 of public act 03-215, as amended by this act.

563 (b) A state agency may reject any bidder as not responsible if such
564 bidder or the bidder's agent violates any provision of chapter 10 of the
565 general statutes or any provision of the general statutes or the
566 regulations of Connecticut state agencies concerning competitive
567 bidding.

568 (c) Each state agency that awards competitive bid contracts shall
569 adopt policies concerning the disclosure of information concerning a
570 competitive bid contract to bidders or potential bidders. Such policies
571 shall require (1) each prebid submission inquiry concerning the
572 specifications of the contract to be in writing, (2) the state agency to
573 answer each such inquiry in writing and provide a copy of the answer
574 to any other person who has expressed interest in bidding on such
575 contract, except for information provided at prebid meetings to which
576 all interested parties are invited, (3) the state agency to record any
577 information disseminated at prebid meetings and make such
578 information available to any interested party, and (4) the state agency
579 to maintain a record of each communication concerning the contract

580 between employees of the state agency and any person interested in
581 the contract, between the date the bid is advertised and the date the
582 contract is awarded, which record shall include the date of such
583 communication, the name of the person requesting information, the
584 state employee providing such information and a general description
585 of the disseminated information.

586 Sec. 10. Section 4b-100 of the general statutes, as amended by section
587 7 of public act 03-215, is repealed and the following is substituted in
588 lieu thereof (*Effective October 1, 2004*):

589 (a) The Commissioner of Public Works shall adopt regulations, in
590 accordance with chapter 54, to implement the provisions of sections
591 4b-91 to 4b-100, inclusive, as amended. Such regulations shall include
592 (1) objective criteria for evaluating the qualifications of bidders, [and]
593 (2) objective criteria for evaluating proposals, and (3) the procedures
594 for evaluating bids after the prequalification status of the bidder has
595 been verified.

596 (b) The Commissioner of Public Works shall adopt regulations, in
597 accordance with the provisions of chapter 54, establishing a procedure
598 for promptly hearing and ruling on claims alleging a violation or
599 violations of sections 4b-91 to 4b-100, inclusive, as amended. Such
600 claims may be initiated by the Department of Public Works or any
601 party whose financial interests may be affected by the decision on such
602 a claim.

603 Sec. 11. Section 8 of public act 03-215 is repealed and the following
604 is substituted in lieu thereof (*Effective October 1, 2004*):

605 (a) The Department of Public Works shall establish construction
606 services award panels which shall each consist of six members: Three
607 of whom shall be appointed by the Commissioner of Public Works and
608 shall be current employees of the Department of Public Works; two of
609 whom shall be appointed by the department head of the user agency;
610 and one of whom who shall be a neutral party appointed by the

611 commissioner. The members of each award panel appointed by the
612 Commissioner of Public Works shall serve for terms of one year from
613 July first. If any vacancy occurs on the panel, the Commissioner of
614 Public Works or the head or acting head of the user agency, as
615 appropriate, shall appoint a person for the unexpired term in
616 accordance with the provisions of this subsection.

617 (b) A panel established pursuant to this section shall not be deemed
618 to be a board or commission within the meaning of section 4-9a, as
619 amended. Such panels shall be the award panels for any contract for
620 the construction, reconstruction, alteration, remodeling, repair or
621 demolition of any public building for the state pursuant to sections 4b-
622 91 to 4b-100, inclusive, as amended, and section 4b-24, as amended.

623 (c) For each applicable contract, the commissioner shall designate
624 one panel to screen all submitted proposals and establish a list of
625 bidders to be interviewed and shall designate a separate panel
626 consisting of different members to interview bidders on the list and
627 submit a list of recommended contractors to the commissioner.

628 (d) The commissioner shall designate one voting member on each
629 panel to serve as chairperson. The chairperson shall moderate the
630 committee, collect votes and compile the results.

631 (e) Each award panel shall prepare a memorandum on the selection
632 process indicating (1) how the evaluation criteria were applied by each
633 panel member to determine the most qualified firms, (2) the ranking of
634 each bidder by each panel member which shall be available to the
635 public after execution of the contract with the selected contractor, and
636 (3) a certification by each panel member that the selection of the most
637 qualified firm was not the result of collusion, the giving of a gift or the
638 promise of a gift, compensation, fraud or inappropriate influence form
639 any person who was not part of the selection process.

640 (f) The commissioner shall select a contractor from among the list of
641 firms submitted by the award panel that interviewed the contractors.

642 After the commissioner has made a selection, the names of the
643 contractor firms submitted to the commissioner shall be available to
644 the public upon request. The commissioner shall also prepare a
645 memorandum on the final phase of the selection process, indicating
646 how the commissioner applied the evaluation criteria to determine the
647 most qualified firm. Such memorandum shall include a certification by
648 the commissioner that the commissioner's selection of the most
649 qualified bidder was not the result of collusion, the giving of a gift or
650 the promise of a gift, compensation, fraud or undue pressure from any
651 person who was not part of the selection process and shall be available
652 to the public after execution of the contract with the selected
653 contractor.

654 (g) The State Ethics Commission may investigate any violation of
655 this section, including but not limited to, any false statement provided
656 on a certification described in subsection (e) or (f) of this section, and
657 may refer such violation to the Attorney General. Upon a finding of a
658 violation of this section, the State Ethics Commission may take action
659 pursuant to sections 1-88 and 1-89 as is consistent with the finding of a
660 violation of the Code of Ethics for Public Officials.

661 (h) Any person who knowingly provides a false statement on a
662 certification described in subsection (e) or (f) of this section shall be
663 guilty of a class A misdemeanor.

664 ~~[(f)]~~ (i) The commissioner shall adopt regulations, in accordance
665 with chapter 54, to implement the provisions of this section.

666 Sec. 12. Subdivision (4) of section 4b-24 of the general statutes, as
667 amended by section 9 of public act 03-215, is repealed and the
668 following is substituted in lieu thereof (*Effective October 1, 2004*):

669 (4) The commissioner may designate projects to be accomplished on
670 a total cost basis for (A) new facilities to provide for the substantial
671 space needs of a requesting agency, (B) the installation of mechanical
672 or electrical equipment systems in existing state facilities, or (C) the

673 demolition of any state facility that the commissioner is authorized to
 674 demolish under the general statutes. If the commissioner designates a
 675 project as a designated total cost basis project, the commissioner may
 676 enter into a single contract with a private developer which may
 677 include such project elements as site acquisition, architectural design
 678 and construction. The commissioner shall select a private developer
 679 from among the developers who are selected and recommended by the
 680 award panels established in [this subdivision] section 8 of public act
 681 03-215, as amended of this act. All contracts for such designated
 682 projects shall be based on competitive proposals received by the
 683 commissioner, who shall give notice of such project, and specifications
 684 for the project, by advertising, at least once, in a newspaper having a
 685 substantial circulation in the area in which such project is to be located.
 686 No contract which includes the construction, reconstruction, alteration,
 687 remodeling, repair or demolition of any public building for work by
 688 the state for which the total cost is estimated to be more than five
 689 hundred thousand dollars may be awarded to a person who is not
 690 prequalified for the work in accordance with section 3 of [this act]
 691 public act 03-215, as amended by this act. The commissioner shall
 692 determine all other requirements and conditions for such proposals
 693 and awards and shall have sole responsibility for all other aspects of
 694 such contracts. Such contracts shall state clearly the responsibilities of
 695 the developer to deliver a completed and acceptable product on a date
 696 certain, the maximum cost of the project and, as a separate item, the
 697 cost of site acquisition, if applicable. No such contract may be entered
 698 into by the commissioner without the prior approval of the State
 699 Properties Review Board and unless funding has been authorized
 700 pursuant to the general statutes or a public or special act.

This act shall take effect as follows:

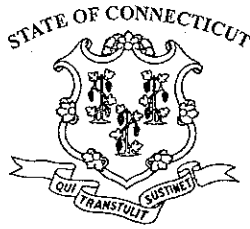
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>

Sec. 6	October 1, 2004
Sec. 7	October 1, 2004
Sec. 8	October 1, 2004
Sec. 9	October 1, 2004
Sec. 10	October 1, 2004
Sec. 11	October 1, 2004
Sec. 12	October 1, 2004

GAE *Joint Favorable Subst.*

Didn't pass

19. 38



General Assembly

February Session, 2004

Raised Bill No. 390

LCO No. 1668



Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING ETHICS IN STATE CONSTRUCTION, LARGE PROCUREMENT AND COMPETITIVE BID CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) As used in sections 1, 2, 5
2 to 9, inclusive, and 11 of this act:

3 (1) "Large state construction or procurement contract" means any
4 contract, having a cost of more than five hundred thousand dollars, for
5 (A) the remodeling, alteration, repair or enlargement of any real asset,
6 (B) the construction, alteration, reconstruction, improvement,
7 relocation, widening or changing of the grade of a section of a state
8 highway or a bridge, or (C) the purchase or lease of supplies,
9 materials, or equipment, as defined in section 4a-50 of the general
10 statutes.

11 (2) "Gift" has the same meaning as provided in subsection (e) of
12 section 1-79 of the general statutes, except that "gift" shall also include
13 any gift of more than one hundred dollars provided by an individual
14 for the celebration of a major life event.

15 (3) "Person" has the same meaning as provided in section 1-1 of the
16 general statutes.

17 (4) "Immediate family" has the same meaning as provided in section
18 1-79 of the general statutes.

19 (5) "Business with which the official or employee is associated" has
20 the same meaning as "business with which he is associated" as defined
21 in of section 1-79 of the general statutes.

22 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) Notwithstanding any
23 provision of the general statutes, no person who is, or is seeking to
24 become, a large state construction or procurement contractor shall:

25 (1) Knowingly give or promise to give, directly or indirectly, any
26 gift or gifts, or offer employment, to any state official or employee
27 involved in awarding, administering or supervising the large state
28 construction or procurement contract for which such person is a
29 contractor or is seeking to become a contractor. State officials and
30 employees involved in awarding, administering or supervising the
31 contract include any state official who has appointing or supervisory
32 authority over the contracting state agency, including, but not limited
33 to, the Governor and any immediate family of the state official or
34 employee or business with which the official or employee is associated;

35 (2) With the intent to obtain a competitive advantage over other
36 bidders, solicit any information from a state official or employee that
37 the contractor knows is not and will not be available to other bidders
38 for a large state construction or procurement contract that the
39 contractor is seeking;

40 (3) Intentionally, wilfully or with reckless disregard for the truth,
41 charge the state for work not performed or goods not provided,
42 including submitting change orders in bad faith with the sole intention
43 of increasing the contract price, falsifying invoices or bills, charging
44 unconscionable rates for services to the state or charging

45 unconscionable prices for goods to the state; or

46 (4) Intentionally or wilfully violate or attempt to circumvent state
47 competitive bidding and ethics laws.

48 (b) No person with whom the state has contracted to provide
49 consulting services on a large state construction or procurement
50 contract and no business with which such person is associated may
51 serve as a contractor for such contract or as a subcontractor or
52 consultant to the person who was awarded such contract.

53 (c) Any person who violates any provision of this section may be
54 deemed a non-responsible bidder by a state agency.

55 (d) The State Ethics Commission may investigate any violations of
56 this section and may refer such violations to the Attorney General.
57 Upon a finding of a violation, the State Ethics Commission may take
58 any appropriate action pursuant to section 1-88 and 1-89 of the general
59 statutes in the same manner as for a violation of the Code of Ethics of
60 Public Officials.

61 (e) Any person who knowingly violates any provision of this section
62 shall be guilty of a class A misdemeanor.

63 Sec. 3. Subsection (i) of section 3 of public act 03-215 is repealed and
64 the following is substituted in lieu thereof (*Effective October 1, 2004*):

65 (i) The commissioner may not issue a prequalification certificate to
66 any contractor (1) who is disqualified pursuant to section 31-57c or 31-
67 57d, [or] (2) who has a principal or key personnel who, within the past
68 five years, has a conviction or has entered a plea of guilty or nolo
69 contendere for or has admitted to commission of an act or omission
70 that reasonably could have resulted in disqualification pursuant to any
71 provision of subdivisions (1) to (3), inclusive, of subsection (d) of
72 section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of
73 section 31-57d, as determined by the commissioner, or (3) who was

74 found, during the five-year period before the commissioner's decision
 75 to issue a prequalification certificate, to have violated any provision of
 76 section 2 of this act.

77 Sec. 4. Subsection (k) of section 3 of public act 03-215 is repealed and
 78 the following is substituted in lieu thereof (*Effective October 1, 2004*):

79 (k) (1) Any materially false statement in the application or any
 80 update statement may, in the discretion of the awarding authority,
 81 result in termination of any contract awarded the applicant by the
 82 awarding authority. The awarding authority shall provide written
 83 notice to the commissioner of such false statement not later than thirty
 84 days after discovering such false statement. The commissioner shall
 85 provide written notice of such false statement to the Commissioner of
 86 Public Works and the Commissioner of Agriculture and Consumer
 87 Protection not later than thirty days after discovering such false
 88 statement or receiving such notice.

89 (2) The commissioner shall revoke the prequalification of any
 90 person, after an opportunity for hearing, if the commissioner finds that
 91 the person has included any materially false statement in such
 92 application or update statement, has been convicted of a crime related
 93 to the procurement or performance of any public or private
 94 construction contract or within the past five years, has violated any
 95 provision of section 2 of this act or has otherwise engaged in fraud in
 96 obtaining or maintaining prequalification. Any person whose
 97 prequalification has been revoked pursuant to this subsection shall be
 98 disqualified for a period of two years after which the person may
 99 reapply for prequalification, except that a person whose
 100 prequalification has been revoked on the basis of conviction of a crime,
 101 a violation of section 2 of this act or engaging in fraud shall be
 102 disqualified for a period of five years after which the person may
 103 reapply for prequalification. The commissioner shall not prequalify a
 104 person whose prequalification has been revoked pursuant to this
 105 subdivision until the expiration of said two or five-year

106 disqualification period and the commissioner is satisfied that the
107 matters that gave rise to the revocation have been eliminated or
108 remedied.

109 Sec. 5. (NEW) (*Effective October 1, 2004*) (a) A state agency that is
110 seeking a contractor for a large state construction or procurement
111 contract shall, with the assistance of the State Ethics Commission,
112 develop a summary of state ethics laws concerning state contractors,
113 including, but not limited to, provisions contained in chapter 10 of the
114 general statutes and section 2 of this act. Such state agency shall
115 provide the summary to any person seeking a large state construction
116 or procurement contract. Such person, upon receipt, shall affirm
117 receipt of such summary, in writing, to the state agency and that key
118 employees of such person have read and understood the summary and
119 agree to comply with its provisions. No state agency shall accept a bid
120 for a large state construction or procurement contract without such
121 affirmations.

122 (b) Each large state construction or procurement contractor shall
123 provide the summary of state ethics laws described in subsection (a) of
124 this section to all subcontractors and consultants and obtain an
125 affirmation from each subcontractor and consultant that such
126 subcontractor and consultant has received such summary and key
127 employees of such subcontractor and consultant have read and
128 understood the summary and agree to comply with its provisions. The
129 contractor shall provide such affirmations to the state agency. Failure
130 to submit such affirmations in a timely manner shall be cause for
131 termination of the large state construction or procurement contract.

132 Sec. 6. (NEW) (*Effective October 1, 2004*) Whenever a person
133 submitting a bid for a large state construction or procurement contract
134 is required to accompany such bid with a surety company bond, such
135 bond shall, in addition to any other requirements established by law,
136 protect the state from any loss or damage caused by the contractor's
137 violation of section 2 of this act, any provision of chapter 10 of the

138 general statutes or any provision of the general statutes or the
139 regulations of Connecticut state agencies concerning the competitive
140 bidding process.

141 Sec. 7. (NEW) (*Effective October 1, 2004*) (a) Each large state
142 construction and procurement contract shall include a provision
143 allowing the state to terminate such contract at any time for any
144 reason, including, but not limited to, the executive head of the state
145 agency that entered into such contract having reasonable cause to
146 believe that the contractor violated any provision of section 2 of this
147 act, chapter 10 of the general statutes or any provision of the general
148 statutes or the regulations of Connecticut state agencies concerning the
149 competitive bidding process, provided such contractor is paid for all
150 costs incurred as of the date of receipt of notice of termination.

151 (b) Each large state construction and procurement contract shall
152 contain a provision allowing the state to terminate such contract if the
153 contractor submits change orders costing in excess of ten per cent of
154 the total contract price before more than ten per cent of the work of the
155 contract is completed. If the state agency does not exercise such option
156 to terminate such contract, the executive head of the state agency shall
157 explain in writing the reasons why the state agency did not terminate
158 the contract.

159 Sec. 8. (NEW) (*Effective October 1, 2004*) The Departments of
160 Administrative Services, Public Works, Transportation and
161 Information Technology, The University of Connecticut and the
162 Connecticut State University shall adopt regulations, in accordance
163 with the provisions of chapter 54 of the general statutes, establishing
164 objective criteria for the award of large state construction and
165 procurement contracts. Each said agency or institution shall post such
166 criteria on its website and publicize the criteria in any other manner
167 that ensures that prospective bidders for such contracts are aware of
168 the criteria.

169 Sec. 9. (NEW) (*Effective October 1, 2004*) (a) Any person who bids on
 170 a large state construction or procurement contract shall certify under
 171 penalty of false statement at the conclusion of the bidding process that
 172 (1) the information in the bid is accurate, (2) there has been no
 173 substantial change in the bidder's financial position or corporate
 174 structure since the submission of the bid, (3) the bid was made without
 175 fraud or collusion with any other person, and (4) the person has
 176 complied with the provisions of section 2 of this act.

177 (b) Any person who knowingly provides a false statement on the
 178 certification described in subsection (a) of this section shall be guilty of
 179 a class A misdemeanor.

180 Sec. 10. Section 4 of public act 03-215, as amended by section 130 of
 181 public act 03-278, is repealed and the following is substituted in lieu
 182 thereof (*Effective October 1, 2004*):

183 (a) The Commissioner of Administrative Services shall adopt
 184 regulations, in accordance with chapter 54, to establish a standard
 185 contractor evaluation form. Such form shall include, at a minimum, the
 186 following evaluation criteria: (1) Timeliness of performance; (2) quality
 187 of performance; (3) cost containment, including, but not limited to, the
 188 contractor's ability to work within the contract's allotted cost, the
 189 accuracy of the contractor's billing, and the number and cause of
 190 change orders and the manner in which the contractor determined the
 191 price on the change orders; (4) safety; (5) the quality of the contractor's
 192 working relationship with the agency and the quality of the
 193 contractor's supervision of the work area; (6) communication with the
 194 agency; (7) the quality of the contractor's required documentation; (8)
 195 the performance of the contractor's subcontractors, to the extent
 196 known by the official who completes the evaluation; [and] (9) the
 197 contractor's and any subcontractor's compliance with part III of
 198 chapter 557, or chapter 558, or the provisions of the federal Davis-
 199 Bacon Act, 40 USC, Sections 276a to 276a-5, inclusive, as from time to
 200 time amended, to the extent known by the official who completes the

201 evaluation; and (10) the contractor's and any subcontractor's
 202 compliance with section 2 of this act, chapter 10 or any provision of the
 203 general statutes or the regulations of Connecticut state agencies
 204 concerning competitive bidding.

205 (b) Each public agency shall compile evaluation information during
 206 the performance of the contract and complete and submit the
 207 evaluation form to the commissioner after completion of a building
 208 project under the agency's control if the building project is funded, in
 209 whole or in part, by state funds. The commissioner shall include the
 210 evaluation in the contractor's prequalification file. The official shall
 211 mail a copy of the completed evaluation form to the contractor. Any
 212 contractor who wishes to contest any information contained in the
 213 evaluation form may submit a written response to the commissioner
 214 not later than thirty days after the date the form was mailed as
 215 indicated by the postmark on the envelope. Such response shall set
 216 forth any additional information concerning the building project or the
 217 oversight of the contract by the public agency that may be relevant in
 218 the evaluation of the contractor's performance on the project. The
 219 commissioner shall include any such response in the contractor's
 220 prequalification file. Such evaluation information shall be available to
 221 any public agency for its assessment of responsibility of the contractor
 222 during the bid selection and evaluation process.

223 (c) As used in this section, "public agency" means a public agency,
 224 as defined in section 1-200, but does not include The University of
 225 Connecticut with respect to any project, as defined in subdivision (16)
 226 of section 10a-109c, that is undertaken and controlled by the
 227 university, and "subcontractor" means a person who performs work
 228 with a value in excess of twenty-five thousand dollars for a contractor
 229 pursuant to a contract for work for the state or a municipality which is
 230 estimated to cost more than five hundred thousand dollars.

231 (d) Upon fifty per cent completion of any building project under a
 232 public agency's control, the agency shall advise the contractor in

233 writing of the agency's preliminary evaluation of the contractor's
234 performance on the project.

235 Sec. 11. (NEW) (*Effective October 1, 2004*) (a) As used in this section:

236 (1) "State agency" means an executive office, department, division,
237 board, commission or other office in the executive, legislative or
238 judicial branch of state government; and

239 (2) "Competitive bid contract" means any contract awarded by a
240 state agency pursuant to a lowest responsible bid or competitive
241 selection process.

242 (b) A state agency may reject any bidder as not responsible if such
243 bidder or the bidder's agent violates any provision of chapter 10 of the
244 general statutes or any provision of the general statutes or the
245 regulations of Connecticut state agencies concerning competitive
246 bidding.

247 (c) Each state agency that awards competitive bid contracts shall
248 adopt policies concerning the disclosure of information concerning a
249 competitive bid contract to bidders or potential bidders. Such policies
250 shall require (1) each prebid submission inquiry concerning the
251 specifications of the contract to be in writing, (2) the state agency to
252 answer each such inquiry in writing and provide a copy of the answer
253 to any other person who has expressed interest in bidding on such
254 contract, except for information provided at prebid meetings to which
255 all interested parties are invited, (3) the state agency to record any
256 information disseminated at prebid meetings and make such
257 information available to any interested party, and (4) the state agency
258 to maintain a record of each communication concerning the contract
259 between employees of the state agency and any person interested in
260 the contract, between the date the bid is advertised and the date the
261 contract is awarded, which record shall include the date of such
262 communication, the name of the person requesting information, the
263 state employee providing such information and a general description

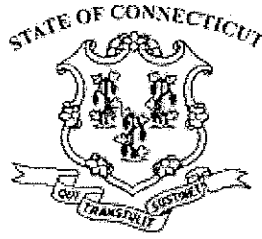
264 of the disseminated information.

This act shall take effect as follows:	
Section 1	October 1, 2004
Sec. 2	October 1, 2004
Sec. 3	October 1, 2004
Sec. 4	October 1, 2004
Sec. 5	October 1, 2004
Sec. 6	October 1, 2004
Sec. 7	October 1, 2004
Sec. 8	October 1, 2004
Sec. 9	October 1, 2004
Sec. 10	October 1, 2004
Sec. 11	October 1, 2004

Statement of Purpose:

To (1) establish a code of ethics for state construction and procurement contractors for contracts having a cost of more than five hundred thousand dollars; (2) require state agencies to provide such ethics code and other ethics information to persons seeking such contracts; (3) require contractors to post a bid bond that includes forfeiture for ethics violations; (4) require all such contracts to contain a provision allowing the state to terminate for convenience; (5) require all contracts to contain a provision allowing the state to terminate the contract if large change orders are submitted prior to significant work being started; (6) require such contractors to certify at the end of the bid process but before the awarding of the bid that no gifts were provided to selection officials, the bidder complied with ethics laws and the bid remains accurate; (7) require state agencies to compile additional information evaluating contractors' performance and make such information available for future use by state agencies in reviewing bids submitted by the contractor; (8) require all state agencies that award competitive bid contracts to establish policies regarding the disclosure of information to bidders, which shall require that all requests for information and the agencies' answers be kept in written form for future disclosure, if required; and (9) establish violations of ethics laws as a ground for rejecting a bid for any competitive bid contract.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



20. 336 (e) & (f)
 91. " "

Substitute House Bill No. 5433

Public Act No. 04-141

AN ACT REVISING PREQUALIFICATION REQUIREMENTS FOR STATE CONSTRUCTION CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 4b-91 of the general statutes, as amended by section 1 of public act 03-215, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) Every contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state, which is estimated to cost more than five hundred thousand dollars, except (1) a contract awarded by the Commissioner of Public Works for (A) a community court project, as defined in subsection (j) of section 4b-55, (B) the Connecticut Juvenile Training School project, as defined in subsection (k) of section 4b-55, (C) the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, (D) The University of Connecticut library project, as defined in subsection (d) of section 4b-55, (E) a correctional facility project, as defined in subsection (m) of section 4b-55, (F) a juvenile detention center project, as defined in subsection (n) of section 4b-55, or (G) a student residential facility for the Connecticut State University system that is a priority higher education facility project, as defined in subsection (f) of section 4b-55, or (2) a project, as defined in subdivision (16) of section 10a-109c, undertaken and controlled by The University of Connecticut in accordance with section 10a-109n, shall be awarded to the lowest responsible and qualified general bidder who is prequalified pursuant to section 3 of [this act] public act 03-215, as amended by this act, on the basis of competitive bids in accordance with the procedures set forth in this chapter, [and section 8 of this act,] after the Commissioner of Public Works or, in the case of a contract for the construction of or work on a building under the supervision and control of the Joint Committee on Legislative Management of the General Assembly, the joint committee or, in the case of a contract for the construction of or work on a building under the supervision and control of one of the constituent units of the state system of higher education, the constituent unit, has invited such bids by advertisements inserted at least once in one or more newspapers having a circulation in each county in the state. The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall indicate the prequalification classification [and aggregate work capacity rating] required for the contract in such advertisement. As used in this section, "prequalification classification" means the prequalification classifications established by the Commissioner of Administrative

Services pursuant to section 3 of [this act] public act 03-215, as amended by this act. [and "aggregate work capacity rating" means the aggregate work capacity ratings established by the Commissioner of Administrative Services pursuant to section 3 of this act.]

(b) The Commissioner of Public Works, the joint committee or the constituent unit, as the case may be, shall determine the manner of submission and the conditions and requirements of such bids, and the time within which the bids shall be submitted, consistent with the provisions of sections 4b-91 to 4b-96, inclusive, as amended. Such award shall be made within sixty days after the opening of such bids. If the general bidder selected as the general contractor fails to perform the general contractor's agreement to execute a contract in accordance with the terms of the general contractor's general bid and furnish a performance bond and also a labor and materials or payment bond to the amount specified in the general bid form, an award shall be made to the next lowest responsible and qualified general bidder. No employee of the Department of Public Works, the joint committee or a constituent unit with decision-making authority concerning the award of a contract and no public official, as defined in section 1-79, may communicate with any bidder prior to the award of the contract if the communication results in the bidder receiving information about the contract that is not available to other bidders, except that if the lowest responsible and qualified bidder's price submitted is in excess of funds available to make an award, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with such bidder and award the contract on the basis of the funds available, without change in the contract specifications, plans and other requirements. If the award of a contract on said basis is refused by such bidder, the Commissioner of Public Works, the Joint Committee on Legislative Management or the constituent unit, as the case may be, may negotiate with other contractors who submitted bids in ascending order of bid prices without change in the contract, specifications, plans and other requirements. In the event of negotiation with general bidders as provided in this section, the general bidder involved may negotiate with subcontractors on the same basis, provided such general bidder shall negotiate only with subcontractors named on such general bidder's general bid form.

(c) On and after October 1, 2004, no person may bid on a contract, except for a project described in subdivision (2) of subsection (a) of this section, for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality, which is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, unless the person is prequalified in accordance with section 3 of [this act] public act 03-215, as amended by this act.

(d) On and after October 1, 2004, each bid submitted for a contract described in subsection (c) of this section shall include a copy of a prequalification [statement] certificate issued by the Commissioner of Administrative Services. [showing that the bidder has the prequalification classification and aggregate work capacity ratings required under such contract.] The bid shall also be accompanied by an update statement in such form as the Commissioner of Administrative Services prescribes. The form for such update statement shall provide space for information regarding all projects completed by the bidder since the date the bidder's prequalification certificate was issued or renewed, all projects the bidder currently has under

contract, including the percentage of work on such projects not completed, the names and qualifications of the personnel who will have supervisory responsibility for the performance of the contract, any significant changes in the bidder's financial position or [business organization] corporate structure since the date the certificate was issued or renewed, any change in the contractor's qualification status as determined by the provisions of subdivision (6) of subsection (c) of section 3 of public act 03-215, as amended by this act, and such other relevant information as the Commissioner of Administrative Services prescribes. Any bid submitted without a copy of the prequalification certificate and an update statement shall be invalid.

(e) Any person who bids on a contract described in subsection (c) of this section shall certify under penalty of false statement at the conclusion of the bidding process that the information in the bid is true, that there has been no substantial change in the bidder's financial position or corporate structure since the bidder's most recent prequalification certificate was issued or renewed, other than those changes noted in the update statement, and that the bid was made without fraud or collusion with any person.

(f) Any person who receives information from a state employee or public official that is not available to the general public concerning any construction, reconstruction, alteration, remodeling, repair or demolition project on a public building prior to the date that an advertisement for bids on the project is published shall be disqualified from bidding on the project.

(g) Notwithstanding the provisions of this chapter regarding competitive bidding procedures, the commissioner may select and interview at least three responsible and qualified general contractors who are prequalified pursuant to section 3 of [this act] public act 03-215, as amended by this act, and [selected by the award panel established in subdivision (4) of section 4b-24] submit the three selected contractors to the construction services award panels process described in section 8 of public act 03-215, as amended by this act and any regulation adopted by the commissioner. The commissioner may negotiate with [any one of such contractors] the successful bidder a contract which is both fair and reasonable to the state for a community court project, as defined in subsection (j) of section 4b-55, the downtown Hartford higher education center project, as defined in subsection (l) of section 4b-55, The University of Connecticut library project, as defined in subsection (d) of section 4b-55, the Connecticut Juvenile Training School project, as defined in subsection (k) of section 4b-55, a correctional facility project, as defined in subsection (m) of section 4b-55, a juvenile detention center project, as defined in subsection (n) of section 4b-55, or a student residential facility for the Connecticut State University system that is a priority higher education facility project, as defined in subsection (f) of section 4b-55. The Commissioner of Public Works, prior to entering any such contract or performing any work on such project, shall submit such contract to the State Properties Review Board for review and approval or disapproval by the board, pursuant to subsection (i) of this section. Any general contractor awarded a contract pursuant to this subsection shall be subject to the same requirements concerning the furnishing of bonds as a contractor awarded a contract pursuant to subsection (b) of this section.

(h) On and after October 1, 2004, any agency that seeks to have a project awarded without

being subject to competitive bidding procedures shall certify to the joint committee of the General Assembly having cognizance of matters relating to [legislative management] government administration and elections that the project is of such an emergency nature that an exception to the competitive bidding procedures of this section is required. Such certification shall include input from all affected agencies, detail the need for the exception and include any relevant documentation.

(i) In the event that the General Assembly approves legislation authorizing an exception to the competitive bidding process for a project, the State Properties Review Board shall complete a review of the contract for such project and approve or disapprove such contract no later than thirty days after the Commissioner of Public Works submits such contract to the board. Such review shall be conducted in accordance with the provisions of section 4b-3, as amended by this act. In the event that such review does not occur within the thirty-day period prescribed by this subsection, such contract shall be deemed to be approved.

Sec. 2. Section 3 of public act 03-215 is repealed and the following is substituted in lieu thereof (Effective October 1, 2004):

(a) As used in this section: (1) "Prequalification" means prequalification issued by the Commissioner of Administrative Services to bid on a contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for work by the state or a municipality; (2) "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars; [and] (3) "principals and key personnel" includes officers, directors, shareholders, members, partners and managerial employees; (4) "aggregate work capacity rating" means the maximum amount of work an applicant is capable of undertaking for any and all projects; and (5) "single project limit" means the highest estimated cost of a single project that an applicant is capable of undertaking.

(b) (1) Any person may apply for prequalification to the Department of Administrative Services. Such application shall be made on such form as the Commissioner of Administrative Services prescribes and shall be accompanied by a nonrefundable application fee as set forth in subdivision (2) of this subsection. The application shall be signed under penalty of false statement.

(2) The application fee shall be as follows:

Aggregate Work Capacity Rating	Fee
\$ 5,000,000. 00 or less	\$ 600. 00
\$ 5,000,000. 01 - \$ 8,000,000. 00	\$ 750. 00
\$ 8,000,000. 01 - \$ 10,000,000. 00	\$ 850. 00
\$ 10,000,000. 01 - \$ 15,000,000. 00	\$ 1,000. 00
\$ 15,000,000. 01 - \$ 20,000,000. 00	\$ 1,500. 00

\$ 20,000,000. 01 - \$ 40,000,000. 00	\$ 2,000. 00
\$ 40,000,000. 01 or more	\$ 2,500. 00

(c) The application form shall, at a minimum, require the applicant to supply information concerning:

(1) The applicant's form of organization;

(2) The applicant's principals and key personnel and any names under which the applicant, principals or key personnel conducted business during the past five years;

(3) The applicant's experience on public and private construction projects over the past five years, or on the applicant's ten most recently-completed projects and the names of any subcontractors used on the projects;

(4) Any legal or administrative proceedings pending or concluded adversely against the applicant or any of the applicant's principals or key personnel within the past five years which relate to the procurement or performance of any public or private construction contract and whether the applicant is aware of any investigation pending against the applicant or any principal or key personnel;

(5) The nature of any financial, personal or familial relationship between the applicant and any public or private construction project owner listed on the application as constituting construction experience;

(6) A statement of whether (A) the applicant has been disqualified pursuant to section 4b-95, this section or section 31-57c or 31-57d, (B) the applicant is on the list distributed by the Labor Commissioner pursuant to section 31-57a, (C) the applicant is disqualified or prohibited from being awarded a contract pursuant to section 31-57b, (D) the applicant has been disqualified by another state, (E) the applicant has been disqualified by a federal agency or pursuant to federal law, (F) the applicant's registration has been suspended or revoked by the Department of Agriculture and Consumer Protection pursuant to section 20-341gg, as amended, (G) the applicant has been disqualified by a municipality, and (H) the matters that gave rise to any such disqualification, suspension or revocation have been eliminated or remedied; and

(7) Other information as the commissioner deems relevant to the determination of the applicant's qualifications and responsibilities.

(d) The applicant shall include a statement of financial condition prepared by a certified public accountant which includes information concerning the applicant's assets and liabilities, plant and equipment, bank and credit references, bonding company and maximum bonding capacity, and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility.

(e) Information contained in the application shall be current as of the time of filing except that

the statement of financial condition shall pertain to the applicant's most recently-completed fiscal year.

(f) The commissioner shall determine whether to prequalify an applicant on the basis of the application and on relevant past performance according to procedures and criteria set forth in regulations which the commissioner shall adopt on or before October 1, 2005, in accordance with chapter 54. Such criteria shall include, at a minimum, the record of the applicant's performance, including, but not limited to, written evaluations of the applicant's performance on public or private projects within the past five years, the applicant's past experience on projects of various size and type, the skill, ability and integrity of the applicant and any subcontractors used by the applicant, the experience and qualifications of supervisory personnel employed by the applicant, the maximum amount of work the applicant is capable of undertaking as demonstrated by the applicant's financial condition, bonding capacity, size of past projects and present and anticipated work commitments, and any other relevant criteria that the commissioner prescribes. Such regulations shall also (1) provide that the criteria considered shall be assigned separate designated numerical values and weights and that the applicant shall be assigned an overall numerical rating on the basis of all criteria, and (2) establish prequalification classifications, [and] aggregate work capacity ratings and single project limits. Such prequalification classifications shall be used to establish the types of work a contractor is qualified to perform and the aggregate work capacity ratings shall be used to establish the maximum amount of work a contractor is capable of undertaking.

(g) (1) The applicant shall indicate the prequalification classifications, [and] aggregate work capacity [rating] ratings and single project limits that are sought. The commissioner may issue a certificate of prequalification to any applicant who meets the requirements of this section. Such certificate shall be effective for one year from the date issued and shall indicate the contractor's prequalification classifications, [and] aggregate work capacity ratings and single project limits. The commissioner may cause the initial certificate of prequalification to be effective for a period not to exceed two years and may require the applicant to remit payment of the application fee, as set forth in subsection (b) of this section, for the first twelve months of certification as well as a prorated application fee, as described in subdivision (3) of this subsection, for any additional period of certification beyond the first twelve months.

(2) A prequalified contractor may apply at any time for additional prequalification classifications, [or] aggregate work capacity ratings or single project limits by submitting the applicable increase in fee, a completed update statement, and other information the commissioner requires.

(3) The commissioner may renew a prequalification certificate upon receipt of a completed update statement, any other material the commissioner requires and a nonrefundable fee in an amount equal to one-half of the application fee for the applicable aggregate work capacity rating as set forth in subsection (b) of this section, except that in no event shall such fee be less than six hundred dollars.

(h) Not later than sixty days after receiving a completed application, the commissioner shall mail or send by electronic mail a notice to the applicant concerning the commissioner's

preliminary determination regarding the conditions of the prequalification certification, a denial of certification, a reduction in the level of certification sought or nonrenewal of certification. Any applicant aggrieved by the commissioner's preliminary determination may request copies of the information upon which the commissioner relied in making the preliminary determination, provided such request is made not later than ten days after the date the notice was mailed [as indicated by the postmark on the envelope] or sent by electronic mail to the applicant. Not later than twenty days after [said postmark date] the date the notice was mailed or sent by electronic mail, the applicant may submit additional information to the commissioner with a request for reconsideration. The commissioner shall issue a final determination regarding the application not later than ninety days after the date the commissioner mailed or sent by electronic mail the notice of the preliminary determination, which ninety-day period may be extended for an additional period not to exceed ninety days if (1) the commissioner gives written notice to the applicant that the commissioner requires additional time, and (2) such notice is mailed or sent by electronic mail during the initial ninety-day period.

(i) The commissioner may not issue a prequalification certificate to any contractor (1) who is disqualified pursuant to section 31-57c or 31-57d, [or] (2) who has a principal or key personnel ~~who, within the past five years, has a conviction or has entered a plea of guilty or nolo contendere for or has admitted to commission of an act or omission that reasonably could have resulted in disqualification pursuant to any provision of subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57c or subdivisions (1) to (3), inclusive, of subsection (d) of section 31-57d, as determined by the commissioner.~~

(j) The commissioner may revoke a contractor's prequalification or reduce the contractor's prequalification classification or aggregate work capacity ratings, after an opportunity for a hearing, if the commissioner receives additional information that supports such revocation or reduction.

(k) (1) Any materially false statement in the application or any update statement may, in the discretion of the awarding authority, result in termination of any contract awarded the applicant by the awarding authority. The awarding authority shall provide written notice to the commissioner of such false statement not later than thirty days after discovering such false statement. The commissioner shall provide written notice of such false statement to the Commissioner of Public Works and the Commissioner of Agriculture and Consumer Protection not later than thirty days after discovering such false statement or receiving such notice.

(2) The commissioner shall revoke the prequalification of any person, after an opportunity for hearing, if the commissioner finds that the person has included any materially false statement in such application or update statement, has been convicted of a crime related to the procurement or performance of any public or private construction contract or, within the past five years or has otherwise engaged in fraud in obtaining or maintaining prequalification. Any person whose prequalification has been revoked pursuant to this subsection shall be disqualified for a period of two years after which the person may reapply for prequalification, except that a person whose prequalification has been revoked on the basis of conviction of a

crime or engaging in fraud shall be disqualified for a period of five years after which the person may reapply for prequalification. The commissioner shall not prequalify a person whose prequalification has been revoked pursuant to this subdivision until the expiration of said two or five-year disqualification period and the commissioner is satisfied that the matters that gave rise to the revocation have been eliminated or remedied.

(l) The commissioner shall provide written notice of any revocation, disqualification, reduction in classification or capacity rating or reinstated prequalification to the Commissioner of Public Works and the Commissioner of Agriculture and Consumer Protection not later than thirty days after any final determination.

(m) The provisions of this section and section 4 of [this act] public act 03-215, as amended by this act, shall not apply to subcontractors.

(n) The commissioner shall establish an update statement for use by bidders for purposes of renewing or upgrading a prequalification certificate and for purposes of submitting a bid pursuant to section 4b-91, as amended by this act.

(o) Any applicant aggrieved by the commissioner's final determination concerning a preliminary determination, a denial of certification, a reduction in prequalification classification or aggregate work capacity rating or a revocation or nonrenewal of certification may appeal to the Superior Court in accordance with section 4-183.

Sec. 3. Section 4 of public act 03-215 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) [The] On or before October 1, 2005, the Commissioner of Administrative Services shall adopt regulations, in accordance with chapter 54, to establish a standard contractor evaluation form. Such form shall include, at a minimum, the following evaluation criteria: (1) Timeliness of performance; (2) quality of performance; (3) cost containment, including, but not limited to, the contractor's ability to work within the contract's allotted cost, the accuracy of the contractor's billing, and the number and cause of change orders and the manner in which the contractor determined the price on the change orders; (4) safety; (5) the quality of the contractor's working relationship with the agency and the quality of the contractor's supervision of the work area; (6) communication with the agency; (7) the quality of the contractor's required documentation; (8) the performance of the contractor's subcontractors, to the extent known by the official who completes the evaluation; and (9) the contractor's and any subcontractor's compliance with part III of chapter 557, or chapter 558, or the provisions of the federal Davis-Bacon Act, 40 USC, Sections 276a to 276a-5, inclusive, as from time to time amended, to the extent known by the official who completes the evaluation.

(b) Each public agency shall compile evaluation information during the performance of the contract and complete and submit the evaluation form to the commissioner after completion of a building project under the agency's control if the building project is funded, in whole or in part, by state funds. Such evaluation information shall be available to any public agency for purposes of assessing the responsibility of the contractor during a bid selection and evaluation

process. The designated official from such agency shall certify that the information contained in the evaluation form represents, to the best of the certifying official's knowledge, a true and accurate analysis of the contractor's performance record on the contract. The commissioner shall include the evaluation in the contractor's prequalification file. The official shall mail a copy of the completed evaluation form to the contractor. Any contractor who wishes to contest any information contained in the evaluation form may submit a written response to the commissioner not later than thirty days after the date the form was mailed as indicated by the postmark on the envelope. Such response shall set forth any additional information concerning the building project or the oversight of the contract by the public agency that may be relevant in the evaluation of the contractor's performance on the project. The commissioner shall include any such response in the contractor's prequalification file.

(c) As used in this section, "public agency" means a public agency, as defined in section 1-200, but does not include The University of Connecticut with respect to any project, as defined in subdivision (16) of section 10a-109c, that is undertaken and controlled by the university, and "subcontractor" means a person who performs work with a value in excess of twenty-five thousand dollars for a contractor pursuant to a contract for work for the state or a municipality which is estimated to cost more than five hundred thousand dollars.

(d) Upon fifty per cent completion of any building project under a public agency's control, the agency shall advise the contractor in writing of the agency's preliminary evaluation of the contractor's performance on the project.

(e) No public agency, employee of a public agency or certifying official of a public agency shall be held liable to any contractor for any loss or injury sustained by such contractor as the result of the completion of an evaluation form, as required by this section, unless such agency, employee or official is found by a court of competent jurisdiction to have acted in a wilful, wanton or reckless manner.

(f) Any public agency that fails to submit a completed evaluation form, as required by this section, not later than seventy days after the completion of a project, shall be ineligible for the receipt of any public funds disbursed by the state for the purposes of the construction, reconstruction, alteration, remodeling, repair or demolition of any public building or any public works project until such completed evaluation form is submitted.

Sec. 4. Section 6 of public act 03-215 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) Not later than January 1, [2004] 2006, and annually thereafter, each awarding authority, other than a municipality, shall prepare a report on the status of (1) any ongoing project for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building which is estimated to cost more than five hundred thousand dollars and is paid for, in whole or in part, with state funds, or (2) any property management contract awarded by the Department of Public Works which has an annual value of one hundred thousand dollars or more. [The] Except for a school construction project, the awarding authority shall submit the report to the Governor and the joint standing committees of the General Assembly having

cognizance of matters relating to government administration and finance, revenue and bonding. The report shall be submitted in accordance with section 11-4a. The first report submitted after a contract is awarded shall indicate: (A) When, where and how the request for bids was advertised; (B) who bid on the projects; (C) the provisions of law that governed the award of the contract and if there were any deviations from standard procedure in awarding the contract; (D) the names of the individuals who had decision-making authority in awarding the contract, including, but not limited to, the individuals who served on any award panel; (E) if an award panel was used, whether the recommendation of the panel was followed and, if applicable, the reason why such recommendation was not followed; (F) whether the awarding authority has any other contracts with the contractor who was awarded the contract, and if so, the nature and value of the contract; and (G) any provisions of law that authorized or funded the project.

(b) The University of Connecticut shall not be required to submit a report pursuant to this section for any project, as defined in subdivision (16) of section 10a-109c, that is undertaken and controlled by the university.

Sec. 5. Section 4b-100 of the general statutes, as amended by section 7 of public act 03-215, is ~~repealed~~ and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) The Commissioner of Public Works shall adopt regulations, in accordance with chapter 54, to implement the provisions of sections 4b-91 to 4b-100, inclusive, as amended. Such regulations shall include (1) objective criteria for evaluating the qualifications of bidders, [and] (2) objective criteria for evaluating proposals, and (3) the procedures for evaluating bids after the prequalification status of the bidder has been verified.

(b) The Commissioner of Public Works shall adopt regulations, in accordance with the provisions of chapter 54, establishing a procedure for promptly hearing and ruling on claims alleging a violation or violations of sections 4b-91 to 4b-100, inclusive, as amended. Such ~~claims may be initiated by the Department of Public Works or any party whose financial interests may be affected by the decision on such a claim.~~

Sec. 6. Section 8 of public act 03-215 is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) The Department of Public Works shall establish construction services award panels which shall each consist of six members: Three of whom shall be appointed by the Commissioner of Public Works and shall be current employees of the Department of Public Works; two of whom shall be appointed by the department head of the user agency; and one of whom who shall be a neutral party appointed by the commissioner. The members of each award panel appointed by the Commissioner of Public Works shall serve for terms of one year from July first. If any vacancy occurs on the panel, the Commissioner of Public Works or the head or acting head of the user agency, as appropriate, shall appoint a person for the unexpired term in accordance with the provisions of this subsection.

(b) A panel established pursuant to this section shall not be deemed to be a board or

commission within the meaning of section 4-9a, as amended. Such panels shall be the award panels for any contract for the construction, reconstruction, alteration, remodeling, repair or demolition of any public building for the state pursuant to sections 4b-91 to 4b-100, inclusive, as amended, and section 4b-24, as amended.

(c) For each applicable contract, the commissioner shall designate one panel to screen all submitted proposals and establish a list of bidders to be interviewed and shall designate a separate panel consisting of different members to interview bidders on the list and submit a list of recommended contractors to the commissioner ranked in order of preference with the most qualified bidder listed first.

(d) The commissioner shall designate one voting member on each panel to serve as chairperson. The chairperson shall moderate the committee, collect votes and compile the results.

(e) Each award panel shall prepare a memorandum on the selection process indicating (1) how the evaluation criteria were applied by each panel member to determine the most qualified firms, (2) the ranking of each bidder by each panel member which shall be available to the public after execution of the contract with the selected contractor, and (3) a certification by each panel member that the selection of the most qualified firm was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

(f) The commissioner shall select a contractor from among the list of firms submitted by the award panel that interviewed the contractors. After the commissioner has made a selection, the names of the contractor firms submitted to the commissioner shall be available to the public upon request. In the event the commissioner does not select the most qualified bidder listed by the awards panel, the commissioner shall prepare a written explanation of the commissioner's decision. The commissioner shall also prepare a memorandum on the final phase of the selection process, indicating how the commissioner applied the evaluation criteria to determine the [most qualified firm] successful bidder. Such memorandum shall include a certification by the commissioner that the commissioner's selection of the successful bidder was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or undue pressure from any person and shall be available to the public after execution of the contract with the selected contractor.

~~[(f)]~~ (g) The commissioner shall adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

Sec. 7. Section 4b-1 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) The Commissioner of Public Works shall (1) be responsible for the administrative functions of construction and planning of all capital improvements undertaken by the state, except (A) highway and bridge construction, the construction and planning of capital improvements related to mass transit, marine and aviation transportation, (B) the Connecticut Marketing

Authority, (C) planning and construction of capital improvements to the State Capitol building or the Legislative Office Building and related facilities by the Joint Committee on Legislative Management, (D) any project as defined in subdivision (16) of section 10a-109c, undertaken by The University of Connecticut, and (E) construction and planning of capital improvements related to the Judicial Department if such construction and planning do not constitute a project within the meaning of subsection (g) of section 4b-55, as amended, including the preparation of preliminary plans, estimates of cost, development of designs, working plans and specifications, award of contracts and supervision and inspection. For the purposes of this subparagraph (E), the term "Judicial Department" does not include the courts of probate, the Division of Criminal Justice and the Public Defender Services Commission, except where such agencies share facilities in state-maintained courts; (2) select consultant firms in accordance with the provisions of sections 4b-56 to 4b-59, inclusive, to assist in the development of plans and specifications when in the commissioner's judgment such assistance is desirable; (3) render technical advice and service to all state agencies in the preparation and correlation of plans for necessary improvement of their physical plants; (4) cooperate with those charged with fiscal programming and budget formulation in the development of a capital program and a capital budget for the state; (5) be responsible for the purchase, sale, lease, sublease and acquisition of property and space to house state agencies and, subject to the provisions of section 4b-21, the sale or exchange of any land or interest in land belonging to the state; (6) maintain a complete and current inventory of all state-owned or leased property and premises, including space-utilization data; (7) supervise the care and control of buildings and grounds owned or leased by the state in Hartford, except the building and grounds of the State Capitol and the Legislative Office Building and parking garage and related structures and facilities and grounds, as provided in section 2-71h, and the Connecticut Marketing Authority and property under the supervision of the Office of the Chief Court Administrator under the terms of section 4b-11; and (8) be responsible for the administrative functions of establishing and maintaining security standards for all facilities housing the offices and equipment of the state except (A) Department of Transportation mass transit, marine and aviation facilities, (B) the State Capitol and the Legislative Office Building and related facilities, (C) facilities under the care and control of The University of Connecticut or other constituent units of the state system of higher education, (D) Judicial Department facilities, (E) Department of Public Safety facilities, (F) Military Department facilities, (G) Department of Correction facilities, (H) Department of Children and Families client-occupied facilities, (I) facilities occupied by the Governor, Lieutenant Governor, Attorney General, Comptroller, Secretary of the State and Treasurer, and (J) facilities occupied by the Board of Parole. As used in this subdivision, "security" has the meaning assigned to it in section 4b-130. Subject to the provisions of chapter 67, said commissioner may appoint such employees as are necessary for carrying out the duties prescribed to said commissioner by the general statutes.

(b) Notwithstanding any other provision of the general statutes, [to the contrary,] except for the property of The University of Connecticut, the commissioner may supervise the care and control of (1) any state-owned or leased office building, and related buildings and grounds, outside the city of Hartford, used as district offices, except any state-owned or leased office building, and related buildings and grounds, used by the Judicial Department, and (2) any other state-owned or leased property, on a temporary or permanent basis, if the commissioner,

the Secretary of the Office of Policy and Management and the executive head of the department or agency supervising the care and control of such property agree, in writing, to such supervision.

Sec. 8. Section 4b-3 of the general statutes, as amended by section 146 of public act 03-6 of the June 30 special session, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(a) There is established a State Properties Review Board which shall consist of six members appointed as follows: The speaker of the House and president pro tempore of the Senate shall jointly appoint three members, one of whom shall be experienced in matters relating to architecture, one experienced in building construction matters and one in matters relating to engineering; and the minority leader of the House and the minority leader of the Senate shall jointly appoint three members, one of whom shall be experienced in matters relating to the purchase, sale and lease of real estate and buildings, one experienced in business matters generally and one experienced in the management and operation of state institutions. No more than three of said six members shall be of the same political party. One of the members first appointed by the speaker and the president pro tempore shall serve a two-year term, one shall serve a three-year term and one shall serve a four-year term. One of the members first appointed by the minority leaders of the House and Senate shall serve a two-year term, one shall serve a three-year term and one shall serve a four-year term. All appointments of members to replace those whose terms expire shall be for a term of four years and until their successors have been appointed and qualified. If any vacancy occurs on the board, the appointing authorities having the power to make the initial appointment under the provisions of this section shall appoint a person for the unexpired term in accordance with the provisions hereof.

(b) The chairman of the board shall be compensated two hundred dollars per diem up to a maximum of thirty thousand dollars annually. Other members of the board shall be compensated two hundred dollars per diem up to a maximum of twenty-five thousand dollars annually. The members of the board shall choose their own chairman. No person shall serve on this board who holds another state or municipal governmental position and no person on the board shall be directly involved in any enterprise which does business with the state or directly or indirectly involved in any enterprise concerned with real estate acquisition or development.

(c) The board may adopt such rules as it deems necessary for the conduct of its internal affairs, in accordance with section 4-167, and may employ a secretary, a clerk, and within its budget, such employees as it shall deem necessary.

(d) Notwithstanding any other statute or special act to the contrary, the Commissioner of Public Works shall be the sole person authorized to represent the state in its dealings with third parties for the acquisition, construction, development or leasing of real estate for housing the offices or equipment of all agencies of the state or for the state-owned public buildings or realty hereinafter provided for in section 2-90, as amended, sections 4b-1 to 4b-5, inclusive, 4b-21, 4b-23, 4b-24, as amended, 4b-26, 4b-27, 4b-30 and 4b-32, subsection (c) of section 4b-66,

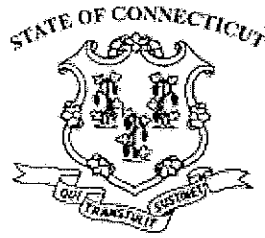
sections 4b-67 to 4b-69, inclusive, 4b-71, 4b-72, 10-95, 10a-72, 10a-89, 10a-90, 10a-114, 10a-130, 10a-144, 17b-655, 22-64, 22a-324, 26-3, as amended, 27-45, 32-1c, 32-39, 48-9, 51-27d and 51-27f, except that the Joint Committee on Legislative Management may represent the state in the planning and construction of the Legislative Office Building and related facilities, in Hartford; the board of trustees of a constituent unit of the state system of higher education may represent the state in the leasing of real estate for housing the offices or equipment of such constituent unit provided no lease payments for such realty are made with funds generated from the general revenues of the state; the Labor Commissioner may represent the state in the leasing of premises required for employment security operations as provided in subsection (c) of section 31-250; the Commissioner of Mental Retardation may represent the state in the leasing of residential property as part of the program developed pursuant to subsection (b) of section 17a-218, provided such residential property does not exceed two thousand five hundred square feet, for the community placement of persons eligible to receive residential services from the department and the Connecticut Marketing Authority may represent the state in the leasing of land or markets under the control of the authority, and, except for the housing of offices or equipment in connection with the initial acquisition of an existing state mass transit system or the leasing of land by said Marketing Authority for a term of one year or more in which cases the actions of the Department of Transportation and the Marketing Authority shall be subject to the review and approval of the State Properties Review Board. Said commissioner shall have the power to establish and implement any procedures necessary for him to assume his responsibilities as said sole bargaining agent for state realty acquisitions and shall perform the duties necessary to carry out such procedures. He may appoint, within his budget and subject to the provisions of chapter 67, such personnel deemed necessary by him to carry out the provisions hereof, including experts in real estate, construction operations, financing, banking, contracting, architecture and engineering. The Attorney General's office, at the request of the commissioner, shall assist the commissioner in contract negotiations regarding the purchase, lease or construction of real estate.

(e) The State Properties Review Board shall be an independent body within the Executive Department.

(f) The State Properties Review Board shall review real estate acquisitions, sales, leases and subleases proposed by the Commissioner of Public Works, [and] the acquisition, other than by condemnation, or the sale or lease of any property by the Commissioner of Transportation under subdivision (12) of section 13b-4, as amended, subject to section 4b-23 and subsection (h) of section 13a-73 and review, for approval or disapproval, any contract for a project described in subsection (h) of section 4b-91, as amended by this act. Such review shall consider all aspects of the proposed actions, including feasibility and method of acquisition and the prudence of the business method proposed. The board shall also cooperate with and advise and assist the Commissioner of Public Works and the Commissioner of Transportation in carrying out their duties. The board shall have access to all information, files and records, including financial records, of the Commissioner of Public Works and the Commissioner of Transportation, and shall, when necessary, be entitled to the use of personnel employed by said commissioners. The board shall approve or disapprove any acquisition of development rights of agricultural land by the Commissioner of Agriculture and Consumer Protection

under section 22-26cc, as amended.

Approved May 21, 2004



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Substitute House Bill No. 5025

Public Act No. 04-245

AN ACT STRENGTHENING ETHICS LAWS CONCERNING FINANCIAL DISCLOSURE, GIFTS AND STATE CONTRACTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 1-83 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2004):

(a) (1) All state-wide elected officers, members of the General Assembly, department heads and their deputies, members of the Gaming Policy Board, the executive director of the Division of Special Revenue within the Department of Revenue Services, members or directors of each quasi-public agency, members of the Investment Advisory Council, state marshals and such members of the Executive Department and such employees of quasi-public agencies as the Governor shall require, shall file, under penalty of false statement, a statement of financial interests for the preceding calendar year with the commission on or before the May first next in any year in which they hold such a position. Any such individual who leaves his or her office or position shall file a statement of financial interests covering that portion of the year during which such individual held his or her office or position. The commission shall notify such individuals of the requirements of this subsection within thirty days after their departure from such office or position. Such individuals shall file such statement within sixty days after receipt of the notification.

(2) Each state agency, department, board and commission shall develop and implement, in cooperation with the Ethics Commission, an ethics statement as it relates to the mission of the agency, department, board or commission. The executive head of each such agency, department, board or commission shall be directly responsible for the development and enforcement of such ethics statement and shall file a copy of such ethics statement with the Department of Administrative Services and the Ethics Commission.

(b) (1) The statement of financial interests, except as provided in subdivision (2) of this subsection, shall include the following information for the preceding calendar year in regard to the individual required to file the statement and the individual's spouse and dependent children residing in the individual's household: (A) The names of all businesses with which associated; (B) the category or type of all sources of income in excess of one thousand dollars, without specifying amounts of income; (C) the name of securities in excess of five thousand

dollars at fair market value owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children; (D) the existence of any known blind trust and the names of the trustees; (E) all real property and its location, whether owned by such individual, spouse or dependent children or held in the name of a corporation, partnership or trust for the benefit of such individual, spouse or dependent children; (F) the names and addresses of creditors to whom the individual, the individual's spouse or dependent children, individually, owed debts of more than ten thousand dollars; [and] (G) any leases or contracts with the state held or entered into by the individual or a business with which he or she was associated; and (H) a description of any partnership, joint ownership or similar business affiliation between (i) a business included under subparagraph (A) of this subdivision with which the individual filing the statement, the individual's spouse or a dependent child of the individual is associated, and (ii) a lobbyist, a person that the individual filing the statement knows or has reason to know is doing business with or seeking to do business with the state or is engaged in activities that are directly regulated by the department or agency in which the individual is employed, or a business with which such lobbyist or person is associated.

(2) The statement of financial interests filed by state marshals shall include only amounts and **sources of income earned in their capacity as state marshals.**

(c) The statement of financial interests filed pursuant to this section shall be a matter of public information, except the list of names, filed in accordance with subparagraph (F) of subdivision (1) of subsection (b) of this section shall be sealed and confidential and for the use of the commission only after a complaint has been filed under section 1-82 and such complaint has been determined by a vote of the commission to be of sufficient merit and gravity to justify the unsealing of such list or lists and not open to public inspection unless the respondent requests otherwise. If the commission reports its findings to the Chief State's Attorney in accordance with subsection (c) of section 1-88, the commission shall turn over to the Chief State's Attorney **such relevant information** contained in the statement as may be germane to the specific violation or violations or a prosecutorial official may subpoena such statement in a criminal action. Unless otherwise a matter of public record, the Ethics Commission shall not disclose to the public any such subpoena which would be exempt from disclosure by the issuing agency.

(d) Any individual who is unable to provide information required under the provisions of subdivision (1) of subsection (b) of this section by reason of impossibility may petition the commission for a waiver of the requirements.

Sec. 2. (NEW) (*Effective from passage*) As used in sections 2 to 4, inclusive, of this act:

(1) "Gift" has the same meaning as provided in section 1-79 of the general statutes, except that the exclusion in subdivision (12) of subsection (e) of said section 1-79 for a gift for the celebration of a major life event shall not apply;

(2) "Quasi-public agency", "public official" and "state employee" have the same meanings as provided in section 1-79 of the general statutes;

(3) "State agency" means any office, department, board, council, commission, institution or other agency in the executive, legislative or judicial branch of state government;

(4) "Large state contract" means an agreement or a combination or series of agreements between a state agency or a quasi-public agency and a person, firm or corporation, having a total cost to such state agency or quasi-public agency of more than five hundred thousand dollars in a calendar or fiscal year, for (A) a project for the construction, alteration or repair of any public building or public work, (B) services, including, but not limited to, consulting and professional services, (C) the procurement of supplies, materials or equipment, (D) a lease, or (E) a licensing arrangement. The term "large state contract" shall not include a contract between a state agency or a quasi-public agency and a political subdivision of the state;

(5) "Principals and key personnel" means officers, directors, shareholders, members, partners and managerial employees; and

(6) "Participated substantially" means participation that is direct, extensive and substantive, and not peripheral, clerical or ministerial.

Sec. 3. (NEW) (*Effective from passage*) (a) Between the effective date of this section and June 30, 2006, no state agency or quasi-public agency shall execute a large state contract unless the state agency or quasi-public agency obtains:

(1) An affidavit from each person, firm or corporation submitting a bid or proposal for such contract. Each such affidavit shall be submitted with the bid or proposal and shall be signed by the official of the person, firm or corporation that submits such bid or proposal. Such affidavit shall attest to whether or not (A) such person, firm, corporation, (B) any principals and key personnel of the person, firm or corporation, who participated substantially in preparing the bid or proposal, or (C) any agent of such person, firm, corporation or principals and key personnel, who participated substantially in preparing the bid or proposal, provided a gift during the two-year period preceding the submission of such bid or proposal, to (i) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for the contract, who participated substantially in the preparation of the bid solicitation or request for proposals for the contract, or (ii) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency. The affidavit shall also attest that no such principals and key personnel of the person, firm or corporation or agent of such person, firm, corporation or principals and key personnel knows of any action by the person, firm or corporation to circumvent the requirements of this subdivision by providing for any other principals and key personnel, official, employee or agent of the person, firm or corporation to provide a gift to any such public official or state employee. If any gift described in this subdivision was provided, the affidavit shall include the name of the recipient, a description of the gift and the value and approximate date of the gift;

(2) An affidavit from the person, firm or corporation awarded the contract, at the time the contract is executed, and signed by the official of the person, firm or corporation executing the contract. The affidavit shall attest to whether or not gifts were provided by (A) such person,

firm, corporation, (B) any principals and key personnel of the person, firm or corporation, who participated substantially in preparing the bid or proposal or the negotiation of the contract, or (C) any agent of such person, firm, corporation or principals and key personnel, who participated substantially in preparing the bid or proposal or the negotiation or award of the contract, between the date of the affidavit under subdivision (1) of this subsection and the date of execution of the contract, to (i) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for the contract, who participated substantially in the preparation of the bid solicitation or request for proposals for the contract or the negotiation or award of the contract, or (ii) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency. If any such gift was provided, the affidavit shall include the name of the recipient, a description of the gift and the value and approximate date of the gift; and

(3) A certification by the official or employee of such state agency or quasi-public agency who is authorized to execute said contract that the selection of the most qualified person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

(b) Each affidavit or certification required under subsection (a) of this section shall be sworn as true to the best knowledge and belief of the person signing the affidavit, subject to the penalties of false statement.

(c) No municipal official or employee shall be required to submit an affidavit under subdivision (1) or (2) of subsection (a) of this section.

(d) Any bidder or proposer that does not submit an affidavit required under subdivision (1) or (2) of subsection (a) of this section shall be disqualified and the state agency or quasi-public agency shall award the contract to the next highest ranked proposer or the next lowest responsible qualified bidder or seek new bids or proposals.

(e) Notwithstanding the provisions of subsection (a) of this section, a person, firm or corporation seeking a large state contract between July 1, 2004, and June 30, 2006, which submits a gift affidavit in accordance with the policy adopted by the Attorney General on January 8, 2004, shall be deemed to comply with the requirements of subdivisions (1) and (2) of subsection (a) of this section.

Sec. 4. (NEW) (*Effective from passage*) (a) On and after July 1, 2006, no state agency or quasi-public agency shall execute a large state contract unless the state agency or quasi-public agency obtains the written certifications described in this section. Each such certification shall be sworn as true to the best knowledge and belief of the person signing the certification, subject to the penalties of false statement.

(b) The official or employee of such state agency or quasi-public agency who is authorized to execute said contract shall certify that the selection of the most qualified or highest ranked person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

(c) The official of the person, firm or corporation awarded the contract, who is authorized to execute the contract, shall certify:

(1) That no gifts were made between the date that the state agency or quasi-public agency began planning the project, services, procurement, lease or licensing arrangement covered by the contract and the date of execution of the contract, by (A) such person, firm, corporation, (B) any principals and key personnel of the person, firm or corporation, who participated substantially in preparing the bid or proposal or the negotiation of the contract, or (C) any agent of such person, firm, corporation or principals and key personnel, who participated substantially in preparing the bid or proposal or the negotiation of the contract, to (i) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for the contract, who participated substantially in the preparation of the bid solicitation or request for proposals for the contract or the negotiation or award of the contract, or (ii) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency;

(2) That no such principals and key personnel of the person, firm or corporation, or agent of such person, firm or corporation or principals and key personnel, knows of any action by the person, firm or corporation to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the person, firm or corporation to provide a gift to any such public official or state employee; and

(3) That the person, firm or corporation made the bid or proposal without fraud or collusion with any person.

(d) Any bidder or proposer that does not make the certifications required under subsection (c) of this section shall be disqualified and the state agency or quasi-public agency shall award the contract to the next highest ranked proposer or the next lowest responsible qualified bidder or seek new bids or proposals.

(e) Each state agency and quasi-public agency shall include in the bid specifications or request for proposals for a large state contract (1) the date that the state agency or quasi-public agency began planning the project, services, procurement, lease or licensing arrangement to be covered by the contract, and (2) a notice of the certification requirements of subsections (c) and (d) of this section.

Sec. 5. Subsection (m) of section 1-84 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(m) No public official or state employee shall knowingly accept, directly or indirectly, any gift, as defined in subsection (e) of section 1-79, from any person the official or employee knows or has reason to know: (1) Is doing business with or seeking to do business with the department or agency in which the official or employee is employed or (2) is engaged in activities which are directly regulated by such department or agency. No person shall knowingly give, directly or indirectly, any gift or gifts in violation of this provision. For the purposes of this subsection, the exclusion to the term "gift" in subdivision (12) of subsection (e) of section 1-79 for a gift for

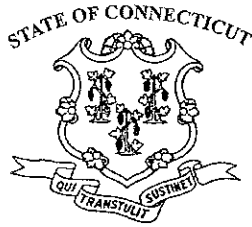
the celebration of a major life event shall not apply.

Sec. 6. Subsection (m) of section 1-84 of the general statutes, as amended by section 5 of public act 03-215, and section 146 of public act 03-6 of the June 30 special session, is repealed and the following is substituted in lieu thereof (*Effective October 1, 2004*):

(m) No public official or state employee shall knowingly accept, directly or indirectly, any gift, as defined in subsection (e) of section 1-79, from any person the official or employee knows or has reason to know: (1) Is doing business with or seeking to do business with the department or agency in which the official or employee is employed; (2) is engaged in activities which are directly regulated by such department or agency; or (3) is prequalified under section 3 of [this act] public act 03-215. No person shall knowingly give, directly or indirectly, any gift or gifts in violation of this provision. For the purposes of this subsection, the exclusion to the term "gift" in subdivision (12) of subsection (e) of section 1-79 for a gift for the celebration of a major life event shall not apply.

Sec. 7. (NEW) (*Effective from passage*) The State Ethics Commission shall develop a plain language summary of state ethics laws concerning (1) persons, firms and corporations **submitting bids or proposals** for state contracts, and (2) state contractors. The commission shall publish said summary on the commission's web site.

Approved June 1, 2004



General Assembly

Raised Bill No. 434

February Session, 2004

LCO No. 1877



Referred to Committee on Government Administration and
Elections

Introduced by:
(GAE)

***AN ACT LIMITING CAMPAIGN CONTRIBUTIONS TO CANDIDATES
FOR STATE OFFICE BY PERSONS AND POLITICAL COMMITTEES
ASSOCIATED WITH LARGE STATE CONTRACTORS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 9-333n of the general statutes, as amended by
2 section 14 of public act 03-241, is repealed and the following is
3 substituted in lieu thereof (*Effective July 1, 2004*):

4 (a) No individual shall make a contribution or contributions in any
5 one calendar year in excess of five thousand dollars to the state central
6 committee of any party, or for the benefit of such committee pursuant
7 to its authorization or request; or one thousand dollars to a town
8 committee of any political party, or for the benefit of such committee
9 pursuant to its authorization or request; or one thousand dollars to a
10 political committee other than (1) a political committee formed solely
11 to aid or promote the success or defeat of a referendum question, (2) an
12 exploratory committee, (3) a political committee established by an
13 organization, or for the benefit of such committee pursuant to its
14 authorization or request, or (4) a political committee formed by a slate

15 of candidates in a primary for the office of justice of the peace of the
16 same town.

17 (b) No individual shall make a contribution to a political committee
18 established by an organization which receives its funds from the
19 organization's treasury. With respect to a political committee
20 established by an organization which has complied with the provisions
21 of subsection (b) or (c) of section 9-333p, and has elected to receive
22 contributions, no individual other than a member of the organization
23 may make contributions to the committee, in which case the individual
24 may contribute not more than five hundred dollars in any one calendar
25 year to such committee or for the benefit of such committee pursuant
26 to its authorization or request.

27 (c) In no event may any individual make contributions to a
28 candidate committee and a political committee formed solely to
29 support one candidate other than an exploratory committee or for the
30 benefit of a candidate committee and a political committee formed
31 solely to support one candidate pursuant to the authorization or
32 request of any such committee, in an amount which in the aggregate is
33 in excess of the maximum amount which may be contributed to the
34 candidate.

35 (d) Any individual may make unlimited contributions or
36 expenditures to aid or promote the success or defeat of any
37 referendum question, provided any individual who makes an
38 expenditure or expenditures in excess of one thousand dollars to
39 promote the success or defeat of any referendum question shall file
40 statements according to the same schedule and in the same manner as
41 is required of a campaign treasurer of a political committee under
42 section 9-333j, as amended.

43 (e) Any individual acting alone may, independent of any candidate,
44 agent of the candidate, or committee, make unlimited expenditures to
45 promote the success or defeat of any candidate's campaign for election,

46 or nomination at a primary, to any office or position, provided any
 47 individual who makes an independent expenditure or expenditures in
 48 excess of one thousand dollars to promote the success or defeat of any
 49 candidate's campaign for election, or nomination at a primary, to any
 50 such office or position shall file statements according to the same
 51 schedule and in the same manner as is required of a campaign
 52 treasurer of a candidate committee under section 9-333j, as amended.

53 (f) (1) As used in this subsection and subsection (f) of section 9-333j,
 54 as amended, (A) "investment services" means investment legal
 55 services, investment banking services, investment advisory services,
 56 underwriting services, financial advisory services or brokerage firm
 57 services, and (B) "principal of an investment services firm" means (i) an
 58 individual who is a director of or has an ownership interest in an
 59 investment services firm to which the State Treasurer pays
 60 compensation, expenses or fees or issues a contract, except for an
 61 individual who owns less than five per cent of the shares of an
 62 investment services firm which is a publicly traded corporation, (ii) an
 63 individual who is employed by such an investment services firm as
 64 president, treasurer, or executive or senior vice president, (iii) an
 65 employee of such an investment services firm who has managerial or
 66 discretionary responsibilities with respect to any investment services
 67 provided to the State Treasurer, (iv) the spouse or a dependent child of
 68 an individual described in this subparagraph, or (v) a political
 69 committee established by or on behalf of an individual described in
 70 this subparagraph.

71 (2) No principal of an investment services firm shall make a
 72 contribution to, or solicit contributions on behalf of, an exploratory
 73 committee or candidate committee established by a candidate for
 74 nomination or election to the office of State Treasurer during the term
 75 of office of the State Treasurer who pays compensation, expenses or
 76 fees or issues a contract to such firm.

77 (3) Neither the State Treasurer, the Deputy State Treasurer, any

78 unclassified employee of the office of the State Treasurer acting on
 79 behalf of the State Treasurer or Deputy State Treasurer, any candidate
 80 for the office of State Treasurer, any member of the Investment
 81 Advisory Council established under section 3-13b nor any agent of any
 82 such candidate may solicit contributions on behalf of an exploratory
 83 committee or candidate committee established by a candidate for
 84 nomination or election to any public office, a political committee or a
 85 party committee, from a principal of an investment services firm,
 86 except that the prohibition in this subsection shall not apply to an
 87 incumbent State Treasurer who establishes an exploratory committee
 88 or candidate committee for any public office other than State
 89 Treasurer.

90 (4) No member of the Investment Advisory Council appointed
 91 under section 3-13b shall make a contribution to, or solicit
 92 contributions on behalf of, an exploratory committee or candidate
 93 committee established by a candidate for nomination or election to the
 94 office of State Treasurer.

95 (5) The provisions of this subsection shall not restrict an individual
 96 from establishing an exploratory or candidate committee for the
 97 individual's own campaign or from soliciting contributions for such
 98 committees from persons not prohibited from making contributions
 99 under this subsection.

100 (g) (1) As used in this subsection, "state officer" means the Governor,
 101 Lieutenant Governor, Secretary of the State, State Comptroller or
 102 Attorney General.

103 (2) If a state officer awards a contract or contracts which, separately
 104 or in the aggregate, have a value of one hundred thousand dollars or
 105 more to a business, (A) no individual who is an owner, partner,
 106 director or officer of said business, or a manager of said business who
 107 has substantial policy or decision-making authority concerning the
 108 administration of the contract, and no political committee organized

109 by said business, shall (i) make a contribution or contributions in
 110 excess of one hundred dollars (I) to, or for the benefit of, any
 111 candidate's campaign for nomination or election to the office held by
 112 said state officer or to said state officer's campaign for nomination or
 113 election to any other public office, (II) to an exploratory committee
 114 formed by said state officer, or (III) to a political committee under
 115 subparagraph (B) of subdivision (3) of section 9-333a, as amended,
 116 which is established by any said candidate or said candidate's agent or
 117 in consultation with or at the request or suggestion of said candidate
 118 or agent or which is controlled by said candidate or agent, or (ii) solicit
 119 contributions on behalf of the candidate or exploratory committee
 120 established by any said candidate, and (B) no such state officer or
 121 committee or agent of the state officer shall solicit contributions, on
 122 behalf of the candidate or exploratory committee established by said
 123 state officer or the candidate or exploratory committee established by
 124 any other candidate for nomination or election to any other public
 125 office or on behalf of any political committee or party committee, and
 126 no candidate for the nomination or election to the office held by said
 127 state officer shall solicit any contribution, on behalf of the candidate
 128 committee established by said candidate or the candidate or
 129 exploratory committee established by any other candidate for
 130 nomination or election to any other public office or on behalf of any
 131 political committee or party committee, from (i) any individual who is
 132 an owner, officer, director, partner or such a manager of said business,
 133 (ii) any individual who is an owner, officer, director or partner of a
 134 subcontractor of said business for such contract or a manager of said
 135 subcontractor who has substantial policy or decision-making authority
 136 concerning the administration of the subcontract, (iii) the spouse of
 137 any such individual or a dependent child of any such individual who
 138 resides in the individual's household, or (iv) a political committee
 139 established by said business or subcontractor.

140 (3) Each state officer shall keep a list of (A) businesses to which the
 141 state officer has awarded a contract or contracts of one hundred

142 thousand dollars or more, and (B) all subcontractors under said
 143 contracts. Said list shall be subject to disclosure under the Freedom of
 144 Information Act and shall be available to the State Elections
 145 Enforcement Commission. Each contract awarded by a state officer
 146 shall include the provisions of subparagraph (A) of subdivision (2) of
 147 this subsection as a condition of the contract. Each business to which a
 148 state officer has awarded a contract or contracts of one hundred
 149 thousand dollars or more and each subcontractor under said contract
 150 shall maintain a list of such business' or subcontractor's owners,
 151 partners, directors, officers and managers with substantial policy or
 152 decision-making authority related to the administration of such
 153 contracts and shall provide such list to the State Elections Enforcement
 154 Commission upon request.

155 (4) For purposes of this subsection, (A) a contract awarded by a
 156 department head in the executive branch of state government who is
 157 appointed by the Governor shall be deemed to have been awarded by
 158 the Governor, and (B) a contract awarded by a board, commission,
 159 council or other multimember authority, for which a majority of the
 160 members are appointed by a single state officer, shall be deemed to
 161 have been awarded by said state officer.

162 Sec. 2. Section 9-333w of the general statutes is amended by adding
 163 subsection (g) as follows (*Effective July 1, 2004*):

164 (NEW) (g) The campaign treasurer of an exploratory committee or
 165 candidate committee established by a candidate for nomination or
 166 election as a state officer, as defined in subdivision (1) of subsection (g)
 167 of section 9-333n, as amended by this act, which sponsors any written,
 168 typed or other printed communication for the purpose of raising funds
 169 shall include in such communication a statement concerning the
 170 contribution limit set forth in subsection (g) of section 9-333n, as
 171 amended by this act.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>

GAE *Joint Favorable*

TRAINING

24.
27.

Sec.1-89a. Conferences on ethical issues. (a) In each odd-numbered calendar year, the State Ethics Commission, the Connecticut Humanities Council and the Joint Committee on Legislative Management shall conduct a conference on ethical issues affecting members of the General Assembly and lobbyists.

(b) In each even-numbered calendar year, the State Ethics Commission shall conduct a conference on ethical issues affecting executive branch and quasi-public agency public officials and state employees.